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Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON 19-21 MARCH 2002

Note by the Secretariat

I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its twenty-third meeting on 19-21 March 2002. The meeting was chaired by Mr. William Ehlers (Uruguay). The agenda proposed in WTO/AIR/1741 and WTO/AIR/1741/Corr.1 was adopted with amendments. The Chairman welcomed China and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu as new members of the Committee.

II. IMPLEMENTATION OF THE AGREEMENT

(a) Information from Members

(i) Activities of Members

Foot-and-Mouth Disease (FMD) situation in the United Kingdom – Information from the European Communities

2. Reporting on positive developments in the FMD situation, the representative of the European Communities stated that the United Kingdom had been officially declared FMD free without vaccination by the Office International des Epizooties on 21 January 2002. As such, all 15 member States of the European Union were free of FMD – including those member States which had been affected by the outbreak in early 2001.

Lifting of FMD measures against certain Argentine provinces - Information from the European Communities.

3. The representative of the European Communities reported that FMD measures taken on 13 March 2001 against certain Argentine provinces had been lifted. On 1 February 2002, imports of fresh, deboned and maturated bovine meat had been authorised from all Argentine provinces except Santiago del Estero, Cordoba and La Pampa; and the measures on these remaining provinces had now also been lifted. In contrast to continuing FMD restrictions maintained by certain Members against EC exports, the EC actions illustrated how a major disease outbreak could be managed between trading partners with minimal disturbance to trade. The respresentative of Brazil noted that his country also continued to face unjustified trade barriers even though the FMD situation in Brazil had been brought under control.

FMD situation – Information from Argentina.

4. The representative of Argentina reported on the evolution of the FMD situation in 2001 and the first months of 2002. The national plan for the eradication of FMD was implemented on

5 April 2001, and included transit restrictions, transparency in outbreak reporting (internally and externally), co-ordination with non-governmental bodies and a mass vaccination programme. 2,126 outbreaks of FMD had been observed to date, with the highest incidence occurring in May 2001. Since February 2002, no further outbreaks of FMD had been reported anywhere in Argentina.

BSE controls – Statement by the United States

5. The representative of the United States provided further information on the results of a Harvard Centre for Risk Analysis report which confirmed the robustness and efficacy of US measures to control the entry and spread of BSE. He noted that after ten years of surveillance and control, there was no evidence of BSE or other TSEs in cattle. Furthermore, the Harvard analysis had shown that the United States was highly resistant to the introduction or establishment of BSE or a similar TSE disease. The Harvard risk analysis was available on the USDA website and contained useful information on possible pathways for entry or spread of the these diseases. The United States requested Members to use the results of the Harvard report when making BSE control decisions that could affect US exports.

(ii) Requests for Information

Turkey's ban on pet food imports – Request for information from Hungary

6. The representative of Hungary stated that in March 2001, Turkey had banned the importation of pet food from all European countries as a result of the BSE epidemic. Although Hungary was a BSE-free country, it was included in the ban's coverage due to the Turkish authorities' concern about cross-infection. After the Turkish authorities had provided an explanation in June 2001, Hungarian companies stopped using raw materials derived from ruminants in pet food mixes. However, the ban on Hungarian exports remained in place. The Hungarian representative asked where the Turkish regulation was published and when it had been notified to the WTO. He requested an explanation of the underlying scientific justification for the import ban and asked whether Turkish suppliers were treated identically to foreign suppliers. The representative of Turkey replied that the problem may have arisen as a result of some missing laboratory analysis, as no import ban was in place. Once that information had been provided, the importation procedures would be complete. The representatives of the United States and European Communities associated themselves with the comments made by Hungary and requested that they be kept informed by Turkey of further developments.

(b) Specific Trade Concerns

(i) New Issues

US import conditions for clementines – Concerns of the European Communities

7. The representative of the European Communities stated that on 30 November 2001, USDA APHIS announced an immediate temporary ban on citrus fruit imports from Spain following two reported interceptions of live Mediterranean fruit fly larvae. The finds were made in cold-treated clementines from Spain stored in close proximity to, and possibly even mixed with, fruits from other sources. The larvae had not been found in official inspections, but by retail customers. To date, the Spanish authorities had not received any official report on the finding of the live larvae.

8. Imports of Spanish citrus into the United States had taken place in accordance with a protocol agreed in 1987 comprising pre-shipment inspection, cold treatment, checks at the point of entry and measures that should be taken in the event of pest findings. Only 17 dead larvae had been found among the 11,950 fruits exported until the mid-season ban was imposed – the larvae having expired as a result of the efficacy of cold treatment. The representative of the European Communities

considered the US measure disproportionate to the extent and nature of the findings given the impact on trade, and discriminatory since other foreign suppliers, also using cold treatment, could still export clementines to the United States. The European Communities was also dismayed by the US decision to study revisions to the cold treatment procedure and issue a final rule accordingly – a procedure which would take a considerable period of time. Imports could be instantaneously banned without any evidence, however re-opening of trade involved lengthy and difficult procedures. He requested the US authorities to lift the ban on Spanish clementines immediately.

9. The representative of the United States reported that interceptions of live medfly larvae had been made on 20 November 2001 in North Carolina, on 27 November in Maryland and on 30 November in Arizona. Interceptions had taken place in five US states ranging from New Jersey to California, at ports of entry and in retail locations, with all interceptions being confirmed by professional identifiers and in each case traced back to shipments of Spanish clementines. In response to the risk posed by this destructive agricultural pest, the USDA had advised the Spanish Embassy in Washington, D.C., and the Spanish Plant Quarantine Service in Madrid that imports of clementines would be suspended. The emergency US action took account of existing international standards on emergency plant protection and WTO obligations.

10. The United States had continued to allow import of clementines from other medfly endemic countries subject to approved treatments. Despite substantially increased medfly inspection activities, no interceptions had taken place in consignments from countries other than Spain. Exchanges of technical experts had taken place with Spain, but no clear source for the problem had been identified. One possibility was that an unusually heavy medfly population in the growing region was to blame. The US representative expressed frustration at the lack of responsiveness of Spanish officials to requests for information by US technical authorities on field controls for medfly. The United States was working in an expedient and fully transparent manner so as to permit exports to take place next season.

US restrictions on pigmeat – Concerns of the European Communities

11. The representative of the European Communities drew the Committee's attention to notification G/SPS/N/USA/214/Add.1, which recognized Portugal as free of African swine fever. The phrasing of the US notification gave the erroneous impression that Portugal was "in a region infected with classical swine fever", whereas Portugal was recognized as free of classical swine fever by the OIE. Several EC member States remained on the US list of countries infected with classical swine fever solely because of delays in the US legislative procedure for reclassification, possibly for political reasons. The representative of the European Communities was hopeful that the publication of a final classical swine fever rule would follow shortly. The European Communities had signed a bilateral veterinary agreement with the United States in 1999 on the understanding that a final rule was imminent. The representative of the United States noted that an outbreak of African swine fever was reported in Portugal in 1999 and that on 7 January 2000, the United States had notified measures taken in this regard. In spite of the change in African swine fever status, the export of pork products to the United States could not commence due to the presence of other animal diseases. He stated that the United States had legitimate scientific concerns related to classical swine fever in the European Communities following recent outbreaks in Germany, Spain and Luxembourg.

Chinese regulations affecting trade in agricultural products produced from modern biotechnology – concerns of the United States

12. The representative of the United States recognized the right of China to establish a regulatory regime for agricultural biotechnology products, but expressed serious concerns about China's proposed measures. On 7 January 2002, China's Ministry of Agriculture released, without warning, implementing regulations for GMO management originally published on 6 June 2001. The

regulations, divided into three categories (GMO labelling, GMO internal approval and GMO imports), were scheduled to go into effect on 20 March 2002. The regulations required pre-market approval and mandatory labelling of biotech products. Companies must require a safety certificate for each biotech event and an import license for each individual shipment containing agricultural biotechnology products. The Ministry of Agriculture indicated that each shipment would be checked to ensure that the documentation and labelling corresponded to the product. Imports indicated as non-biotech would only be randomly checked. It was unclear as to whether the regulations applied to processed products. The representative of the United States stated that China had not notified these regulations to the WTO, precluding any chance for comment by interested WTO Members. He stressed the importance for China as a new WTO Member to abide by its transparency obligations and looked forward to notification of these measures to the Committee. In the view of the United States, certain aspects of China's new biotechnology regulations did not appear to be consistent with WTO rules nor based on science, and appeared to establish different approval procedures for imported and domestic products. The United States welcomed the interim measures issued on 11 March 2002, which streamlined measures for the importation of biotech agricultural products through 20 December 2002.

13. The representative of Canada stressed that Members had the right to introduce regimes for the management of biotech products, but shared the concern of the United States that these measures had not been notified to the WTO. The representatives of Argentina and Australia also associated themselves with the concerns over notification of China's GMO measures.

14. The representative of China noted the public anxiety in his country over the safety of agricultural products and foods which had led the Chinese Government to issue regulatory rules in May 2001. As China was not at that time a WTO Member, it had no obligation to make a notification. The representative of China stated that three regulatory measures were issued in January 2002 to implement these GMO rules and his government intended to notify these rules once the English versions had been finalised. He recalled that bilateral consultations had been taking place among the major parties concerned over the past few months and that interim measures had been introduced so as to ensure that normal trade was not disrupted.

Japanese FMD restrictions on meat products – Concerns of the European Communities

15. The representative of the European Communities stated that slow administrative procedures had caused unjustified disruptions in the trade of several EC member States with Japan. In spite of the formal recognition by the OIE of EC member States as FMD free, Japanese procedures for recognizing the FMD free status of these countries dragged on. Every possible effort had been made by the European Communities to meet the Japanese requirements and the European Communities was disappointed that Japan would not begin the re-opening process until after the official FMD free declaration by the OIE on 19 September 2001. Furthermore, the re-opening process itself was cumbersome with one member State having been requested on six separate occasions to produce full information, notwithstanding the fact that all the questions had been fully answered. When combined with delays in organizing a Japanese inspection mission, the effect was unnecessary delay in reopening of the market. Furthermore, the European Communities felt that the use of questionnaires was only justified at the time of the outbreak, and that import requirements should be made clear from the outset. In this regard, the representative of the European Communities requested an indication of what further time-period Japan would require to recognize the EC FMD disease-free status.

16. The representative of the European Communities further indicated that a similar problem occurred with regard to classical swine fever. Although all Japan's import conditions had been met, Japan did not agree to recognize the regionalization of parts of countries formerly affected by classical swine fever.

17. The representative of Japan noted that the risk assessment for FMD had been delayed due to late responses from France, Ireland and the Netherlands. On classical swine fever, Japan had agreed to apply the regionalization concept to Germany in September 2002 – at which time the disease occurred only in Rhineland-Palatinate. When the disease spread elsewhere, Japan judged it no longer appropriate to apply the regionalization concept. As a result of evolution in the disease situation, the animal health requirements were in the process of amendment and the German Embassy would be duly informed.

Colombia's FMD restrictions – Concerns of Argentina

18. The representative of Argentina explained the problems that his country faced in exporting products to Colombia due to the latter's restrictions imposed, on 26 September 2001, after the FMD outbreaks in Argentina. Colombia had agreed that Argentina could export those products for which risk mitigation techniques could be applied according to the OIE code, and on 17 October 2001 published new measures specifying those processed products which could be imported. An inspection visit by the Colombian sanitary services in late October 2001 complemented the information provided by the Argentine services. However, Argentina was unable to export the products in question due to continued information requests from their Colombian counterparts. As such, the representative queried Colombia on when this situation might change.

19. The representative of Colombia noted that his government had received and replied to comments and questions from Argentina in November 2001 and March 2002. Argentina did not have establishments authorised by the Colombian Livestock Institute (ICA) to export risk products to Colombia. The Colombian authorities were considering the process and production methods at Argentine establishments to inactivate the virus in risk materials, and if satisfactory, Argentine establishments would receive the necessary ICA authorization.

Venezuela's FMD restrictions – Concerns of Argentina

20. The representative of Argentina requested Venezuela to accept imports of animal-based products from Argentina that had followed the risk mitigation procedures found in the OIE Animal Health Code. The representative of Venezuela stated that Argentina had not been listed as an FMD-free zone in an OIE Bulletin dated 17 March 2002, and she recalled information from the Pan-American Health Office, dated 6 March 2002, on a new FMD outbreak in Argentina.

Chile's pet food import requirements - Concerns of Argentina

21. The representative of Argentina made reference to notification G/SPS/N/CHL/104 from Chile concerning a draft standard for imports of pet food containing meat and bonemeal from ruminants. This draft standard would require these products to undergo thermal treatment, as provided for by the OIE. The concern of Argentina, as detailed in document G/SPS/GEN/302, was that the requirement was stricter than the international reference parameters, and lacked sufficient scientific grounds and risk analysis to justify this higher level of protection. He noted that the EU Scientific Steering Committee had given Argentina a Level 1 rating, i.e. "highly unlikely that domestic cattle are (clinically or pre-clinically) infected with BSE agent".

22. The representative of the United States stated that his country had provided comments to the Chilean authorities. He noted that the OIE Animal Health Code did not recommend that countries free of BSE undertake the treatment outlined in the notification, and he hoped that the Chilean authorities would take the results of the Harvard Risk Analysis into account.

23. The representative of Chile stressed that a distinction had to be made between countries free of BSE and countries free of TSEs; the draft Chilean measure also included the latter within its scope.

He further clarified that the procedures had to be applied to raw materials in pet food and not to the final product.

China's import requirements for apples, pears and citrus - Concerns of Argentina

24. The representative of Argentina noted that bilateral consultations were on-going with the Chinese authorities to overcome difficulties related to the export of apples, pears and citrus fruit to China due to the latter's fruit-fly restrictions. Various procedures, including the use of cold treatment, were being used to overcome these difficulties. He requested that the Chinese authorities provide a list of outstanding questions related to risk assessment and further information requests.

25. The representative of China explained that Medfly and South American fruit fly had not been reported in China and that effective measures had to be taken to prevent entry given their destructiveness. A risk assessment by Chinese experts had concluded that the risk of introducing these pests from Argentina was high. China was requesting Argentina to provide data on the efficacy of cold treatment against fruit flies and to demonstrate that it could provide an equivalent level of protection in comparison with importing from pest-free areas. He noted that establishing pest-free areas was not practicable for all pests, as recognized by the IPPC standard, and that countries with advanced research on fruit fly control and quarantine did not accept importation from countries where the pest had previously been present, even if they were currently pest-free. China was open to bilateral technical discussions and joint research with Argentina on this issue.

Panama's import licenses for agricultural products – Concerns of Canada

26. The representative of Canada stated that high level meetings between Canadian and Panamanian authorities were underway regarding the automaticity of Panama's import licensing procedures. The representative of Panama stated that his national authorities were considering Canada’s concerns.

Venezuela's restrictions on imports of potatoes, fresh mushrooms, fresh tomatoes, fertilised eggs, day-old chicks and meat products – Concerns of Colombia

27. The representative of Colombia stated that Venezuela was not granting sanitary certificates for potatoes, fresh mushrooms, fresh tomatoes, fertile eggs, day-old chicks and meat products. He requested that Venezuela notify the measure which served as the basis for the discretionary granting or non-issuance of health certificates for Colombian exports. While processing potatoes were granted health certificates for import in discretional reduced duty quotas, no such health certificates were granted for table potatoes, and this had led to a 40 per cent fall in Colombian exports to Venezuela over the period 2000-2001. Similarly, while eggs for industrial use were allowed import health certificates, eggs for human consumption were not permitted health certificates. No reasons were given for the refusal of health certificates for fresh mushrooms. Since the end of 1998, restrictions were placed on Colombian exports of beef, pork and processed meat products. Despite an inspection visit in September 2001 by Venezuelan Health Ministry officials to various Colombian cold storage and slaughterhouses, these facilities were not granted recognition. The granting of health certificates was sporadic even for facilities certified by the Venezuelan authorities. Very few health permits were granted for fresh tomatoes. He requested Venezuela to notify the measure on which basis these restrictions were applied, or to resolve these issues.

28. The representative of Chile pointed out that the use of health certificates for imports did not comply with the obligations of the SPS Agreement. The representative of the United States associated himself with the comments made by Colombia and noted that his country's exports had faced problems as a result of the denial or delay of discretionary sanitary and phytosanitary certificates by the Venezuelan authorities. These restrictions seemed designed to protect Venezuelan

producers and were contrary to the SPS and other WTO agreements. Canada also associated itself with Colombia's remarks.

29. The representative of Venezuela provided details of import levels for potatoes, mushrooms and fresh tomatoes in 2001, which showed that import licenses were being granted. She noted that Venezuela had temporarily suspended SPS licensing for fertile eggs and day-old chicks as a result of an outbreak of avian flu in Colombia, a disease alien to Venezuela, from January 2002. On 8 February 2002, the prohibition on fertile eggs was removed. Notification of the lifting of restrictions against day-old chicks was made on 7 March 2002. For meat products, the respresentative of Venezuela noted that her country regularly imported beef on the hoof, slaughtered and processed beef and swine products. In reply to the comments of other Members, she stated that it was important not to confuse problems of administrative capacity and management with discretionary licensing.

Bolivia's FMD trade restrictions – Concerns of Argentina

30. As a result of progress in bilateral consultations with the Bolivian delegation, the representative of Argentina stated that she would defer commenting on this issue and update the Committee on progress in resolving this issue at its next meeting.

(ii) Issues previously raised

European Communities' restrictions on fishmeal – Concerns of Peru

31. The representative of Peru stated that the measures taken by the European Communities in December 2000 against the use of fishmeal were unjustified. The European Communities recognized that fishmeal posed no risk of BSE for human or animal health, but maintained the measure due to what it termed a risk of cross-contamination or adulteration. The measure had no scientific basis and created doubts among other countries, such as the Russian Federation, which resulted in a negative impact on fishmeal trade. Furthermore, as the EC measure had been extended indefinitely, it could no longer be justified as a provisional measure. The representative of Peru felt there was a lack of political will on the part of the European Communities to reach a solution to this problem.

32. The representative of the European Communities recalled his statement at the November meeting of the SPS Committee (G/SPS/R/25 paragraphs 16 and 17). The measure was maintained due to demonstrated cases of cross-contamination detected through the EC's detection system. One tool which could help resolve this issue was a reliable test which could distinguish mammalian meals from fishmeal. Unfortunately, although under development, such a test would not be available in the near future. The representative of the European Communities repeated his request for Peru to provide evidence of trade disruption as a result of the EC measure, as no disruption was apparent in EU trade statistics.

EC agricultural biotechnology approval process – Concern of the United States

33. The representative of the United States recalled his comments at the last meeting (G/SPS/R/25 paragraph 102) and stated that no progress had been made on the EC approval system despite statements by various Commission officials. The de facto moratorium had resulted in the loss of over $200 million per year in US agricultural exports. New information given by Commission officials in February 2002 that the approval process would be restarted later in 2002 was welcome. Frustration in US commercial and political circles continued to increase. While his government welcomed the establishment of the European Food Safety Authority, he noted that it did not address the fundamental problem of individual EC member States holding the approval process hostage to political concerns, with disregard for science and sound regulatory decision-making.

34. The representative of Canada supported the US comments and noted that the March 1998 EC moratorium represented a de facto ban on a wide range of products. As such it violated not just the SPS Agreement, but also Article XI of the GATT. The representative of Argentina echoed the concerns expressed by the United States and Canada.

35. The representative of the European Communities noted the absence of procedures at the international level for approval of these types of products. The European Communities was following closely the work of the Codex ad hoc Taskforce on Biotechnology. Considerable efforts had been made to put together a consistent body of legislation to set up an authorization procedure for products resulting from biotechnology, with the aim of giving the producer legal certainty and transparency. The newly established EC Food Safety Authority was responsible for risk assessment and risk communication, but further time was needed to complete work by the European Parliament and the member States.

Japanese import measures on fire blight – Concerns of the United States

36. The representative of the United States recalled his comments at the last Committee meeting (G/SPS/R/25 paragraph 9) in relation to Japan's quarantine restrictions on exports of US apples. The quarantine restrictions prohibited apple imports from orchards in which any fireblight had been detected and provided for: the thrice yearly inspection of US orchards for the presence of fireblight, disqualification from export if fireblight was detected in a 500-meter buffer zone around the orchard, and post-harvest treatment with chlorine. The United States considered that these restrictions were not consistent with Japan's obligations under Article 11 of the GATT, as well as Articles 2.2, 2.3, 5.1, 5.2, 5.3, 5.6, 6.1, 6.2, 7 and Annex B of the SPS Agreement. The United States had requested consultations under Articles 1 and 4 of the Dispute Settlement Understanding on 1 March 2002.

37. The representatives of New Zealand and the European Communities also expressed the view that Japan's restrictions on apples were more trade restrictive than necessary and stated their interest in a resolution of this issue.

38. The representative of Japan explained that the risk from the entry of fireblight was very serious. The United States had not provided Japan with sufficient scientific evidence to amend its phytosanitary measures. At a bilateral expert meeting in October 2001, Japan had identified the data that was needed. Japan took note of the US request for consultations and hoped that the technical data would be provided by the United States so as to allow a resolution of this issue.

Australia's import risk assessment for table grapes - Concerns of the United States

39. The representative of the United States reported that following consultations, Australia and the United States had agreed on a series of risk management procedures to allow for the export of California table grapes to Australia. The risk management practices would be re-evaluated after one year. The representative of Australia expressed her pleasure at the mutually agreeable outcome.

Chile's import restrictions on frozen bovine meat – Concerns of Argentina

40. The representative of Argentina referred to Chilean notification G/SPS/N/CHL/102 on fresh and frozen meat controls. It appeared Chile would permit imports from countries in one of two categories: FMD free without vaccination or FMD free with vaccination. The draft Chilean regulation did not allow for the import of fresh or frozen bovine meat from countries with zones infected with FMD. As such, the requirement was more demanding than the OIE Animal Health Code which permitted imports if risk mitigation procedures were followed in countries where FMD was present. Argentina requested Chile to amend its draft regulation to reflect the OIE code, or to show sufficient scientific grounds for not applying the international reference standard. The representative of the

United States stated that his authorities had made written comments to the Chile and hoped that these comments would be taken into account. The representative of Brazil supported Argentina.

41. The representative of Chile explained that the entry into force of the measures in question had been postponed twice to enable other trading partners to make additional comments. Controlling the 1987 outbreak of FMD in Chile had cost $8.5 million and forced the eradication of 30,000 animals – a considerable cost for Chile. Nevertheless, Chile planned to allow for the possibility of importing from countries not recognized as FMD free by the OIE, on the basis of a risk assessment by the Chilean authorities. In the case of Argentina, Chile had not learnt of the FMD outbreak in that country through their bilateral usual channels so the normal risk analysis procedures could not be applied and emergency measures had had to be instituted.

Restrictions on apple and pear imports into the Canary Islands - Concerns of Argentina

42. The representative of Argentina stated that certain points had been cleared up in bilateral consultations with the European Communities and Spain and that any further progress would be reported to the Committee.

Venezuela's restrictions on imports of potatoes, garlic and onions - Concerns of Argentina

43. The representative of Argentina recalled that this issue had been raised twice in Committee meetings in 2001. Bilateral negotiations with the Venezuelan health authorities had taken place, but in the protocols agreed for importation on potatoes, garlic and onion the matter of certification and inspection visits by Venezuelan officials was left outstanding. In view of the seasonal nature of these commodities, Argentina was concerned that if the inspection visits did not take place soon, no exports would be possible before 2003. The representative of Venezuela stated that her authorities were awaiting a proposal from Argentina on a convenient date for the inspection visit.

Secretariat update on specific trade concerns

44. At the invitation of the Chairman, several Members provided additional information on document G/SPS/GEN/204/Rev.2. The representative of the European Communities stated that progress had been made on the trade concern with the Philippines under item 3 "Belgium - Measures regarding canned tuna in oil" and details would be submitted to the Secretariat. The representative of New Zealand stated that his country had withdrawn the proposed measures identified in item 89 "New Zealand - Proposed import prohibition of commodity-country combinations of fresh cut flowers and foliage".

(c) Consideration of Specific Notifications Received

EC notification G/SPS/N/EEC/149 on safety assessment, authorization and labelling of genetically modified food and feed – Concerns of the United States and Canada

45. The representative of the United States noted that the EC measure would require a lengthy food safety review for all biotech foods, and for the first time, biotech feeds, which would also need to be labelled. Products already authorized for food or feed use within the European Union would have to be re-authorized within nine years of their first placement on the market. The stated objective of this regulation was to protect health, environment and consumers and to prevent deceptive practices. However, the proposed regulation failed to distinguish the protection of health and the environment, from perceived consumer desires. The regulation would be more trade restrictive than necessary and could create substantial difficulties for countries which imported US agricultural products for processing and further export, without addressing the identified concerns and potential hazards. The United States suggested that without affordable testing and enforcement, the proposed regulation left

room for fraud, and he encouraged the European Commission to examine the feasibility of implementing the regulation, and to analyze its potential regulatory impact.

46. The representative of the United States further noted that the new EU Food Authority (EFA) would undertake the risk assessments for biotech food and feed, and provide technical and scientific information. But the European Commission could propose an outcome inconsistent with the risk assessment or other safety and technical information considered by EFA. This left room for political interference of the type that had led to the existing moratorium on the approval of biotech products. Furthermore, the EC legislation set a "no risk" level which could effectively block the regulatory process since no product could ever be guaranteed to have "no risk". The United States had already provided its comments directly to European Communities regarding this notification.

47. The representative of Canada appreciated that the European Communities had notified these proposed regulations under the SPS Agreement, since his country believed that they clearly fell within the scope of the Agreement. The primary concern expressed by Canada in the comments they had provided directly to European Communities was that certain elements of these proposals lacked the needed scientific basis.

48. The representative of Israel expressed concern with the trend of Members' requiring traceability and mandatory labelling for biotech food and feed products, a requirement not based on scientific information. He hoped that these Members could find less trade restrictive measures to address their concerns.

49. The representative of Jordan stated that his country supported the consideration of the safety of GM products on the basis of risk assessment as provided in the SPS Agreement. Requirements imposed on the products at later stages would result in unjustified costs that affected the competitiveness of products in markets, and resulted in greater restrictions on developing countries.

50. The representative of Argentina supported the US and Canadian statements regarding this proposed regulation, as these measures could cause serious economic damage to Argentina.

51. The representative of Taipei, China, stated that safety assessment of all GM products should be based on scientific evidence to ensure that the products were as safe as their conventional counterparts. He stressed the need for all Members to work together in particular to strengthen risk communication. Taipei, China, considered that an appropriate labelling scheme was necessary to respect consumers' right to know and to choose. Voluntary labelling had been introduced in Taipei, China, in January 2001, and mandatory labelling would be applied in three phases starting in January 2003. Information about the regulations of Taipei, China, was available at www.doh.gov.tw.

52. The representative of Singapore requested the European Communities to take account of all the concerns raised to ensure that the implementation of the regulations did not impose a disguised restriction on trade. She drew attention to the potential impact of the EC regulation on countries which processed and re-exported goods imported from the United States.

53. The representative of Egypt supported the statements of the United States and Jordan. He expressed particular concern that the measures could result in difficulties for developing country exports, and might become unnecessary obstacles to trade.

54. The representative of the European Communities recalled that the European Commission had notified these regulations also under the TBT Agreement, and that the TBT Committee had held detailed discussions at the technical level the previous week. The European Communities had notified these measures also under the SPS Agreement because many Members had expressed interest in the SPS Committee, but he believed that a large part of these proposals fell within the scope of

Article 2.2 of the TBT Agreement. The European Communities had extended the time-period to allow Members to submit comments also in response to the SPS notifications. The comments received had been very similar to those received in response to the TBT notification, and the European Communities would make a combined response to comments received about both notifications.

55. The representative of the European Communities further reported that the draft regulation had been adopted by the EC College of Commissioners and sent to the EU Parliament and the EC Council for their final decisions. The comments received by the EC Commission, as well as the responses to these, would be provided to the EC member States, the EC Council and Parliament. It was unclear how long the process would take and when any decisions might be made. He noted that the EFA would be a scientific body with responsibility to do independent risk assessment. Its advice would be sent to the EC Commission and Council for the appropriate risk management decisions, a procedure consistent with the Codex guidelines, since it was not appropriate for the risk assessment body to also make the risk management decisions.

56. The representatives of the United States, Argentina and other Members indicated appreciation that the European Communities had notified these proposed measures also to the SPS Committee, and had provided additional time for Members to submit comments on the proposals.

EC notification G/SPS/N/EEC/150 on traceability and labelling of genetically modified organisms and food and feed – Concerns of the United States and Canada

57. The Chairman noted that this issue was closely related to the previous matter discussed. The representative of the United States specified that the traceability requirement was to apply to all biotech food and feed products at all stages of placing the product on the market. The stated objective was to facilitate control of labelling claims, environmental monitoring and control of the product. Food processors would be obliged to maintain specific information at each stage of placing the product on the market, including details as to whether the product contained or was produced from biotech products. As a general rule, if a product contained ingredients consisting of biotech products or produced from biotech events, these must be identified. This included products made from but not containing biotech products, such as soybean oil. The United States believed that this proposal would be expensive to implement, but would not be enforceable nor would it achieve its stated objectives. Without an expensive identity preservation system, it was not possible to accurately identify all the biotech events which could potentially be in a shipment. This would pose a substantial burden especially on developing countries. The United States was further concerned as the measure was not targeted at health risks and covered products already approved for use within the European Communities. Traceback systems for food safety had been effectively used to recall food in the US response to health problems, based on batch and lot numbers on packages. However, the proposed traceability system would be applied across-the-board to products whose safety had already been assessed. Before adopting the measure, he urged the European Commission to assess the feasibility of applying the measure reliably and accurately; evaluate less trade restrictive means to achieve the objectives; and evaluate the regulatory impact of the proposal.

58. The representative of Australia indicated that her country had already submitted detailed written comments on this matter to the European Communities. These comments questioned the scientific basis for the EC measures, the international standards to be used, and the nature of the risk assessment underpinning the EC measures. Australia also questioned whether a less trade-restrictive measure could be used, and why the traceability system for GM foods differed substantially from that for other foods.

59. The representative of Norway indicated his doubt as to whether the SPS Agreement was relevant to the issue of GMOs. Norway strongly believed that labelling and traceability were not

contrary to WTO obligations. The EC regulations took account of the Codex, the Cartagena Protocol and the OECD guidelines. According to the Codex guidelines, food labelling should be used to avoid misleading or confusing the consumer with regard to the true nature of a food. Consumers' distrust in food products would be greater if labelling and traceability were not required. He believed that the EC measures addressed a legitimate objective and were not excessive in relation to their purpose. The representative of Cyprus stated his country's support of the EC position regarding information to consumers.

60. The representative of Argentina stated that her country shared the concerns raised by other Members, and would shortly submit written comments to the European Communities. Argentina recalled that only three organizations were relevant in the context of the SPS Agreement, and was concerned about Norway's reference to the OECD.

61. The representative of the European Communities stated that all comments would be considered and communicated to the appropriate bodies. Current labelling requirements in the European Communities required information on ingredients included in food products; all that was added in terms of labelling was to ensure the inclusion of GM products within the general requirements. There were four objectives of traceability: (1) to recall products in case of an unforeseen problem; (2) to monitor potential risks for the environment; (3) to control the accuracy of information provided on the labelling; and (4) to inform consumers about what they ate and to avoid deceptive practices. The EC Commission considered that these four objectives were primarily related to the TBT Agreement, and had notified this proposal to the SPS Agreement only for transparency.

62. The representative of Canada observed that one of the stated objectives of the proposed regulation was to provide a high level of protection of human health. Canada accepted that consumers had the right to know many things, but found troublesome that these regulations focussed on products made from GM products but not on products made with GM processing aids, even when there might be traces of the processing aids left in the product. Several industries in Europe used GM processing aids. The selective focus was also troubling in that consumers did not need to be informed if products were derived from mutagenesis, another form of genetic alteration. The focus of the EC regulations was overly specific and selective. Furthermore, the mandatory nature of the traceability system created problems especially for enforcement. He noted that no international standard existed in this area; the Biosafety Protocol was not yet in effect and neither it nor the OECD guidelines were referred to in the SPS Agreement. Canada looked forward to a scientific assessment of the needs, challenges and benefits of the proposed mandatory traceability system.

Various Members' notifications related to avian influenza – Concerns of the United States

63. The representative of the United States noted that although international standards existed with regard to avian influenza, differences in the understanding and interpretation of these standards was resulting in unjustified trade barriers. The OIE considered highly pathogenic avian influenza as a List A disease, however low pathogenic strains were not considered to have any significant animal health or socio-economic consequences. However, some Members had restricted imports of poultry products from the United States, due to a strain of low pathogenic avian influenza in two poultry flocks in the state of Virginia. The United States requested that the OIE national and regional office take a pro-active role in advising their members on this matter.

64. The representative of Japan observed that there was a possibility of variation in the strains, with a case of a low pathogenic strain causing an outbreak that later varied to a high pathogenic strain. Japan had provided scientific evidence in this regard to the United States, and believed that its measure was fully justified. Japanese officials would meet shortly with their US counterparts to examine the measures taken by the United States in response to the outbreak.

65. The representative of the OIE confirmed that the OIE Animal Health Code referred to highly pathogenic or virulent avian influenza; most strains of avian influenza were of low pathogenicity and did not cause economic effects. However, the OIE Manual of Standards also made reference to low pathogenicity viruses in laboratory tests through mutation showing highly pathogenic effects in the field. The OIE was working on a definition to include such viruses.

66. The representative of the Philippines added that the OIE Manual also included some text related to low pathogenic strains. Even these strains could cause clinical disease and problems.

Romania notification (G/SPS/N/ROM/3) of emergency measures on FMD – Concern of Argentina

67. The representative of Argentina reported that Romania had agreed to correct this notification to clarify that the objective of the FMD related measure did not include food safety.

(d) Any Other Matters Relating to the Operation of Transparency Provisions

68. The Chairman reported that notifications received since the last Committee meeting were summarized on a monthly basis in G/SPS/GEN/291, G/SPS/GEN/293, G/SPS/GEN/294, G/SPS/GEN/296 and G/SPS/GEN/300. The most recent list of National Notification Authorities was contained in G/SPS/NNA/2, Addendum 1 and Addendum 2. The most recent list of National Enquiry Points was contained in G/SPS/ENQ/12, Addendum 1 and Addendum 2. A list of Members (and Observers) that had provided the Secretariat with contact details for a National Notification Authority and a National Enquiry Point was provided in G/SPS/GEN/27/Rev.9.

69. According to paragraph 11 of the Decision on the Implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures (G/SPS/19), the Committee should revise its recommended notification procedures to provide for the notification of the conclusion of agreements which recognized equivalence. A proposed format for the notification of such agreements had been circulated in document G/SPS/W/114, and considered by the Committee at its informal meeting of 18 March 2002.

70. The Chairman reported that at the informal meeting, one of the major concerns raised by Members was the need to clarify what type of agreement should be notified. Several Members were of the view that arrangements or measures less formally structured than systems-wide agreements could also fall within the definition of equivalence agreements and suggested that such arrangements should also be notified. Another Member pointed out that depending on the definition used, his national authorities could be required to notify either 3 or 1600 equivalence agreements. In this regard, several Members underlined the important distinction between market access and equivalence arrangements, and that guidance was necessary on the type of agreement which had to be notified, particularly in view of the impact that a broad definition could have on the workload for their Enquiry Points.

71. Another issue raised by some Members was that only those equivalence agreements with a significant effect on trade should be notified. Other concerns were the scope of additional information that should be provided on request by the notifying Member and how the comments of third countries should be taken into account. Further suggestions made on the equivalence notification format included explaining the economic rationale of the equivalence agreement.

72. The Committee considered a revised proposal for the notification format, but was unable to reach agreement. The Secretariat was requested to further revise the document on the basis of the comments received, for consideration by the Committee at its next meeting. (The revised proposal was subsequently circulated as G/SPS/W/114/Rev.1)

73. The Chairman also reported on the discussions during the informal meeting on the proposed revisions to the recommended transparency procedures. The representative of the European Communities had introduced its paper on this matter (G/SPS/W/118), and drawn attention to the delays resulting from the need to translate documents from Members who did not use one of the official languages of the WTO. He had also highlighted the problem of measures being notified in an emergency format after they had already entered into force and where there was not an urgent problem of health protection.

74. At the informal meeting, the representative of the United States had presented document G/SPS/GEN/311, and explained the legal obligation on their federal authorities to take comments into account regardless of the source. He had also explained that a high number of US notifications were for pesticide maximum residue levels since the Food Quality and Protection Act required the US authorities to re-evaluate 10,000 pesticide MRLs.

75. New Zealand had introduced document G/SPS/W/112/Rev.1, stressing that the proposed changes to the recommended notification procedures were not designed to add substantive new obligations, but rather to provide clarifications and guidance which would encourage Members to take a more unified approach to this important subject. At the informal meeting, Members had undertaken a line-by-line examination of New Zealand's proposals. Comments from Members covered a range of subjects including the title of the New Zealand document, concerns over the timing of notifications, how to deal with addenda, revisions and corrigenda, extensions to the comment period, what to do when a measure contained both SPS and TBT elements, relevant standard-setting bodies for the purposes of the Agreement, multiple and single enquiry points as well as changes to the notification formats.

76. The representative of Egypt, with the support of a number of developing country Members, proposed that a new box on special and differential treatment be included in the standard notification format. He suggested that any specific provisions of benefit to developing countries contained in the proposed regulation being notified could be identified in this box, including the names of developing countries which might be affected by the proposed measure and the availability of relevant technical assistance. Several Members raised the concern that few regulations contained explicit provisions for special and differential treatment, however, such treatment might nonetheless be provided in response to specific problems raised by developing country exporters. They noted also the need for additional time to consider this new proposal.

77. At its regular meeting, following further discussion and modifications, the Committee adopted the revised recommended procedures for implementation of the provisions relating to transparency in the SPS Agreement (G/SPS/7/Rev.2). The Committee agreed to further consider the proposal by Egypt at its next meeting.

(e) SPS-Related Matters in the Doha Decision on Implementation

78. The Secretariat drew attention to the various provisions of the Doha Decision on Implementation which related to the SPS Agreement (WT/MIN(01)/17, paragraph 3). The Ministers took note of the Committee’s Decision on Equivalence and instructed the Committee to expeditiously develop a programme for further work. The Ministers also took note of the Director-General’s actions to coordinate with the relevant standard-setting organizations on technical assistance. Ministers agreed that when the appropriate level of protection allowed for the phasing in of a measure in the context of Article 10.2, the longer time frame for compliance would normally be a period of not less than six months. In addition, Ministers agreed that with regard to paragraph 2 of Annex B, the reasonable period of time between the publication of a measure and its entry into force would normally be a period of not less than six months. Ministers also instructed the SPS Committee to review the operation and implementation of the SPS Agreement at least once every four years, with

the report of the next review to be prepared for the Sixth Session of the Ministerial Conference in 2005. A final provision was that the SPS Committee should address any outstanding implementation issue and report to the Trade Negotiating Committee by the end of 2002. The one outstanding issue before the SPS Committee was the proposal by Brazil with regard to the need to notify the introduction of SPS measures which had significant effects on trade opportunities, and the need to notify final rules. This matter was being considered in the context of the revision of the recommended transparency provisions.

III. THE SPS AGREEMENT AND DEVELOPING COUNTRIES

(a) Implementation of the Provisions for Special and Differential Treatment

79. The Chairman indicated that no specific issues of concern to developing countries had been submitted by Members for consideration at this meeting of the Committee. The Secretariat drew attention to the joint statement issued at Doha by the Directors-General of the WTO, FAO, WHO, OIE and the World Bank with respect to the SPS Agreement. Since the last meeting of the Committee, a technical-level meeting had been held between officials of these organizations to consider a draft paper by the FAO on a conceptual framework for capacity building in the areas of food safety, animal and plant health. The discussions went beyond the need for participation in standard-setting to the capacity to implement these standards. The need to involve the private sector had been identified, as well as enforcement of the capacity of developing countries to ensure the safety of products which they imported. The organizations shared information on the various training materials which they had developed, and recognized the need to include regional and national donor organizations in discussions at some future date. Another meeting at the Deputy Directors-General level would be scheduled to further the coordination among the organizations.

80. The representative of Codex reported that the FAO concept paper focussed on how to ensure that developing countries had the necessary capacity to not only participate effectively in standard-setting but to also make use of the international standards. The Marrakech meeting of food regulators in January had permitted a very open exchange of views, as had a similar food safety conference for Europe held in February (see paragraph 116, below). The Biosecurity Portal being developed by the FAO and its partners was designed to link various information resources and make them easily available.

IV. EQUIVALENCE – ARTICLE 4

(a) Report of the Informal Meeting on Equivalence

81. The Chairman reported on the informal discussions held prior to the Committee meeting on the proposed programme for further work on equivalence (G/SPS/W/115) and on the submissions by Argentina (G/SPS/W/116 and G/SPS/W/117) and the European Communities (G/SPS/GEN/304). Several Members had raised concerns that work in the three standard-setting organizations not be stalled during the time of the work programme. It was suggested that a letter to that effect could be sent to the three organizations. In addition, it was suggested that Members ensure that the three organizations had the necessary resources to progress with their work on equivalence.

82. The representative of Codex had noted that the Codex Committee on Food Import and Export Certification and Inspection Systems (CCFICS) was working on two texts; one related to recognition of equivalence in the SPS area, the other related to the TBT area. The representative of the OIE explained that on a technical level, in the Codes and the Standards Manual, alternative methods and treatments were identified, which could be useful for recognizing equivalence. In addition, the OIE was working on draft guidelines for judgement of equivalence. The representative of the IPPC noted that the Interim Commission on Phytosanitary Measures (ICPM) had not yet initiated work on

equivalence due to resource constraints, and because some contracting parties felt that work on efficacy of treatment had to be more advanced before progress could be made on equivalence.

(b) Information from Members on their Experience

83. Paragraph 12 of the Equivalence Decision indicates that Members should regularly provide information on their experience regarding the implementation of Article 4 to the Committee, and in particular provide information on the successful conclusion of any bilateral equivalence agreements or arrangements. The representative of the European Communities presented a paper on its practical experience in the implementation of equivalence, in particular with regard to fishery products (G/SPS/GEN/304). The EC Directive of 1991 permitted exporting countries to benefit from the same conditions as EC member States on the basis of recognition of the equivalence of their control and inspection systems. Although this legislation pre-dated the adoption of the SPS Agreement and the work undertaken in the Codex on equivalence, its provisions were consistent with these latter texts. Since 1991, 61 countries had been evaluated and their inspection and certification systems had been accepted as equivalent; another 41 countries were being evaluated. The fish products exported by these countries benefited from a reduced inspection upon arrival in the European Communities, and circulated freely once imported. The European Communities imported more that one-half of the fishery products it consumed, primarily from developing countries

84. The representatives of Chile and Argentina questioned whether the EC Directive actually recognized equivalence, since the exporting countries were required to comply with all aspects of the EC regulation.

85. The representative of the European Communities replied that this equivalence was with respect to inspection and certification systems, as the European Commission had never received a request for the recognition of the equivalence for a specific product. In response to a question raised by Malaysia, he clarified that the European Communities had recognized equivalence in cases where an exporting country did not have a competent inspection and certification authority, but where this responsibility was undertaken by a neighboring country.

(c) Information from Relevant Observer Organizations

86. The Chairman drew attention to the letters addressed to the chairpersons of the Codex, OIE and IPPC, which were annexed to document G/SPS/W/115. These letters drew attention to the Committee's decision on equivalence and invited each of the three organizations to keep the Committee regularly informed of their activities in this regard.

87. The representative of the Codex reported that despite this letter, CCFICS was unable to advance the draft guidelines for the judgement of equivalence at its recent meeting in Brisbane (G/SPS/GEN/308). However, CCFICS had moved forward the date of its next meeting to March 2003, so that it might present the document on the judgement of equivalence for final approval by the Codex Commission in June 2003.

88. The representative of the OIE drew attention to document G/SPS/W/119 which reflected work in the Animal Health Code Commission on the judgement of equivalence. This text was circulated for comment by members, and comments submitted through the WTO Secretariat were welcome.

89. The representative of the IPPC recalled that the ICPM had decided that development of a standard on equivalence should await further work on the efficacy of treatment.

(d) Further Work Programme

90. Paragraph 13 of the Decision on Equivalence (G/SPS/19) stipulates that the Committee shall develop a specific programme to further the implementation of Article 4 of the SPS Agreement, with particular consideration of the problems encountered by developing country Members. The Fourth Session of the Ministerial Conference took note of the Decision on Equivalence and instructed "… the Committee to develop expeditiously the specific programme to further the implementation of Article 4" of the SPS Agreement.

91. A work programme was proposed in document G/SPS/W/115, which focused primarily on those issues which some Members had already identified as needing further clarification or action. However, Members could request further action on other elements of the Decision on Equivalence at any time. The proposal also foresaw a review of the Decision on Equivalence within 24 months.

92. At the regular meeting, the Committee adopted a programme for further work (G/SPS/20).

93. The Chairman noted that the Committee had already addressed a number of the issues agreed under the programme for further work, and should proceed with the clarification of several paragraphs of the Decision on Equivalence. The representative of Argentina presented document G/SPS/W/116, which addressed paragraph 5 of the Decision. Argentina proposed a matrix to facilitate consideration of various situations where the variables were the existence of current trade and the amount of information available regarding the product to be traded. Products not previously traded between two Members would be subject to the ordinary procedure for recognition of equivalence. However, in cases where the imported product currently met all of the requirements of the importing country and no problems had arisen, the recognition of equivalence should be an automatic procedure, the formal acknowledgement of the existing situation, with subsequent reduction of control measures on the part of the importing country. Where some information existed, but not sufficient for an automatic recognition of equivalence, an abbreviated procedure should eliminate those steps of the ordinary procedure for which there was sufficient information. The next phase of the work would be to identify the various steps in the ordinary procedure for the recognition of equivalence. A third phase would be to complete the matrix presented in the Argentine document, based on the experience of Members.

94. Many Members welcomed the document of Argentina, which led to in-depth reflections on the issues involved. The representative of Singapore noted that there appeared to be no differentiation in the matrix as to which procedure would apply for products which were of high, medium or low risk. Clarification was also sought as to whether the automatic procedure would be applied for cases where sanitary requirements had not been met by products moving in existing trade.

95. The representative of the United States noted that paragraph 3 of the Argentine document made reference to the existence of mutual trade, whereas the concept of equivalence could apply where there was only one-way trade. In addition, historical trade patterns may not be relevant in considering equivalence, for example if an appropriate level of protection was changed. Furthermore, the description of a process as "automatic" was of concern, as the United States was required to implement recognition of equivalence through regulations, in which case a notice had to be published, time allowed for the receipt, evaluation and response to comments, and a final rule published.

96. The representative of Canada stated that he believed some developing countries were of the view that many of the SPS requirements of developed countries were either too stringent or somehow unjustifiably discriminated against imports from developing countries, that is, that products from developing countries were subjected to more rigorous controls. However, he believed that there was confusion between market access and equivalence. If a country had exported products that met the importing country’s requirements, this did not mean that the products of the exporting country were

equivalent, but only that they met the importer's requirements. Either the exporting country could continue to meet the importer's requirements, or they could seek a change in the situation and request recognition of the equivalence of their own system. Canada believed that market access for developing countries could be improved in a number of ways, of which equivalence was not necessarily the most effective.

97. The representative of Australia suggested that the factors needed to access equivalence went beyond those identified by Argentina, and particularly beyond the existence of historic trade. For example, it was important to identify whether there had been changes in the disease status of the exporting country, or in the appropriate level of protection of the importing country. The Argentine paper seemed to address conformity and market access issues, rather than equivalence *per se*.

98. The representative of the European Communities questioned what advantage would arise from the recognition of equivalence of products from a country that had exported without difficulty for many years. However, regulations were not static, and perhaps a traditional exporter might seek the recognition of equivalence with respect to a new requirement.

99. The representative of Malaysia suggested that before accelerated procedures could be defined, there was a need to clarify what constituted "normal" procedures for the recognition of equivalence.

100. The representative of Argentina agreed on the need for more in-depth consideration of these issues. With respect to historic trade, it was important that there was an established relationship between the competent authorities of the importing and exporting countries, which should facilitate consideration of equivalence. Logically, if equivalence would not result in any benefits for the exporting country, there was no reason to change the existing pattern of trade. In introducing document G/SPS/W/117, the representative of Argentina indicated that the objective was to clarify paragraph 7 of the Decision on Equivalence. The determination of the appropriate level of protection (ALOP) was a sovereign right of the importing country, and it was also the importing country that determined whether the exporting country's measure was equivalent. To ensure the greatest transparency and objectivity, there was need for clarity regarding the importing country's ALOP, and also for information regarding the level of protection provided by the importing country's own measures.

101. The representative of Canada noted that the adopted guidelines on Article 5.5 addressed the difficulty of expressing an ALOP, both for political and technical reasons. The representative of the United States suggested that the obligation to avoid using the ALOP to discriminate between imported and domestic products was already contained within the SPS Agreement. The representative of Chile indicated that the Argentine paper moved forward the need for a practical implementation of the Article 5.5 guidelines. The representative of Brazil understood that authorities might be reluctant to publicly disclose an ALOP, but suggested that such information could be provided bilaterally on a confidential basis.

102. The representative of the European Communities agreed that it was often politically impossible to clearly state an ALOP, except in cases where there was a technical requirement, such as the sterilization of canned goods. Furthermore, in some cases the importing country may not need to apply SPS measures because it did not have the disease of concern. This made it impossible to compare domestic measures with those required for imports.

103. The representative of Argentina observed that many of the difficulties identified affected not only developing countries, but all potential exporters who had no clarity as to the ALOP they were expected to meet. It was clear from Article 4 that there was a direct link between equivalence and the ALOP, hence the need to address this matter. The relationship between the level of protection

provided by the importing Member's own measures and what it required from imported products should be further explored.

V. TECHNICAL ASSISTANCE AND COOPERATION

104. The Chairman recalled that in October 2001, the Secretariat had circulated a new technical assistance questionnaire, document G/SPS/W/113. To date, thirteen Members and observer governments had responded to the questionnaire. In addition, the Philippines had circulated an initial reply during the meeting. These responses had been circulated as documents with the following symbols:

Egypt	G/SPS/GEN/295/Add.1,
Sri Lanka	G/SPS/GEN/295/Add.2,
Georgia	G/SPS/GEN/295/Add.3,
Trinidad and Tobago	G/SPS/GEN/295/Add.4/Rev.1,
Uganda	G/SPS/GEN/295/Add.5,
Indonesia	G/SPS/GEN/295/Add.6,
Belarus	G/SPS/GEN/295/Add.7,
Saudi Arabia	G/SPS/GEN/295/Add.8,
Thailand	G/SPS/GEN/295/Add.9,
Colombia	G/SPS/GEN/295/Add.10,
Cyprus	G/SPS/GEN/295/Add.11,
Tunisia	G/SPS/GEN/295/Add.12,
Cuba	G/SPS/GEN/295/Add.13.

105. Several Members had presented their responses at the informal meeting on technical assistance that preceded the regular meeting. The representative of Indonesia highlighted the requests of his country for technical assistance especially for the development of human resources, national infrastructure for diagnostic plant protection, and training of trainers in the areas of food security, animal and plant health.

106. The representative of Guinea indicated that her country had not yet replied to the questionnaire, but needed technical assistance in particular to reinforce human resources and institutional arrangements.

107. The representative of the European Communities welcomed answers to questionnaires from more Members, since these provided a useful basis for country-to-country discussions among experts. The IPPC's Phytosanitary Capacity Evaluation (PCE) was a particularly useful tool for evaluating developing country's needs in this regard.

108. The Chairman indicated that the chairman of the ICPM would be invited to the next meeting of the SPS Committee to present information on the PCE. The representative of the IPPC noted that the PCE allowed countries to evaluate their strengths and weaknesses in the phytosanitary area, identify their technical assistance needs, and establish priorities in this regard. Furthermore, the PCE was useful in evaluating on-going or past technical assistance provided to developing countries. The conclusion from the 20 countries in which the PCE had been applied was that past technical assistance had not concentrated sufficiently on building institutional capacity before other technical assistance needs were addressed.

109. The Chairman reported on the informal meeting on technical assistance, which considered the replies to the questionnaires, as well as information from Members, the observers and the Secretariat on their technical assistance activities. The responses to the questionnaires showed that the most pressing needs, apart from information requirements, were the development of laws, regulatory

frameworks and institutional structures. The needs for hard infrastructure such as laboratories did not represent the most pressing obstacles to the implementation of the SPS Agreement. Several Members and observer organizations provided concrete examples of technical assistance programmes which could address the identified needs, such as the model food laws available from the FAO, and many countries were able to provide training on the establishment and operation of effective enquiry points. Third countries might also be able to provide experts to help solve a particular problem.

110. Some Members suggested that the WTO Secretariat could play a co-ordinating role, and help direct Members with specific needs to relevant agencies able to provide the requested assistance. Technical and scientific expertise and funding were available in different agencies, and as agreed in Doha, co-ordination among these agencies was underway. It was suggested that a workshop on transparency could be a useful way to train enquiry points and notification authorities.

111. One Member suggested that the information already available before the Committee on technical assistance needs should be compiled into an information document. It was also suggested that the SPS Committee make a submission to the Committee on Trade and Development, proposing ways to most effectively use the increased technical assistance funds in the SPS area. The Chairman requested that Members who were willing to provide assistance in the area of transparency to inform the Secretariat, and it would be helpful if Members could provide lists of experts in different areas willing to provide technical assistance.

112. The Secretariat reported that its technical assistance activities since the last meeting of the Committee included national workshops in China and in Taipei, China, and regional workshops for the Golf Corporation Council countries hold in the UAE and another for the Baltic states held in Estonia. The countries involved in these workshops clearly had a good, albeit uneven, understanding of the basic provisions of the SPS Agreement, but interest in specific areas. For example, participants in the Dubai workshop identified the need for better internal coordination and the lack of effective implementation of the transparency provisions of the SPS Agreement as particular problems. These national and regional workshops also showed the value of good cooperation between the WTO, OIE, Codex and IPPC secretariats. In addition, an information session on the work of the SPS Committee was held in the margins of the Codex CCFICS meeting in Brisbane, where the equivalence decision by the SPS Committee was of critical concern and importance. The WTO Secretariat also participated in the FAO/WHO Global Forum for Food Safety Regulators in Marrakech in January, and drew attention to the valuable documents regarding national food safety programmes that were prepared for that occasion.

113. The representative of China stated his appreciation for the three seminars in which the WTO Secretariat had participated. He noted that the seminars had been addressed to all the regional directors-general and deputy chiefs for food safety, plant and animal health; to policy-making officials at headquarters; and to the Minister and Vice-Ministers. He also thanked the Canadian Government for its acceptance and training of Chinese officials, and the US Government for the technical assistance it had provided. China had embarked on a 3-year training programme for SPS staff, which would involve one year of training abroad, including perhaps a period of time within the WTO, OIE and IPPC secretariats.

114. With regard to the technical assistance activities of the observer organizations, the Chairman noted that written reports had been provided in advance of the meeting by the OIE (G/SPS/GEN/306), OIRSA (G/SPS/GEN/307) and IICA /G/SPS/GEN/310). The representative of IICA drew attention to the work underway in collaboration with FAO and the Caricom secretariat regarding the establishment of a Caribbean Agricultural Health and Food Safety Agency, with the objective of supporting national programmes and of undertaking actions which could be most effective at the regional level. In the Andean area, courses were provided in risk analysis, epidemiological surveillance and the influence of SPS on food safety, along with the publication of various specific

documents. In South America, IICA carried out an international symposium on traceability and animal health, and established a forum for discussion of health, trade and food safety mechanisms. A regional seminar on risk analysis and animal health was scheduled for Bolivia the following week.

115. The representative of OIRSA reported on further developments in the master's degree programme in sanitary and phytosanitary measures for students from Central America and Panama, and on various technical presentations which had been made on issues such as HAACP and good agricultural practices. Phytosanitary programmes had also been coordinated among the services of the countries of the region to advance cooperation and inspection procedures. Further details were provided in G/SPS/GEN/307.

116. The representative of the Codex secretariat recalled that he had provided information regarding the cooperative arrangements between the FAO, WTO and the World Bank at the informal discussions. He stated that he would provide a comprehensive list of SPS-related projects being undertaken by the FAO at the next meeting of the Committee in a manner which corresponded to the most recent questionnaire on technical assistance needs (G/SPS/W/113). The representative of the Codex further drew attention to the nearly 150 papers prepared for the Global Forum of Food Safety Regulators, and in particular the paper by Dr. Gupta from India on technical assistance. The documents were available at www.foodsafetyforum.org\global, which also contained a link to the documents from the Pan European conference on food safety.

117. The representative of the OIE recalled that he had also provided information at the informal discussions on technical assistance, and further details were provided in G/SPS/GEN/306. He noted in particular that FMD and BSE had been the subjects of various seminars, along with workshops on risk analysis. A workshop on emerging diseases of concern to Africa had been held in Ethiopia in cooperation with the World Bank.

VI. MONITORING THE USE OF INTERNATIONAL STANDARDS

118. The Chairman recalled that according to the agreed procedures (G/SPS/11), Members should submit at least 30 days in advance of each regular meeting examples of trade problems they believed were related to the use or non-use of relevant international standards, guidelines or recommendations. These are to be compiled into a provisional list for consideration by the Committee. At the October meeting, South Africa proposed that the OIE be requested to develop a standard on African horse sickness (G/SPS/GEN/289). The representative of the OIE reported that the Animal Health Code Commission had begun to examine the group of diseases which relied on insect vectors (such as African horse sickness), but had first concentrated on Bluetongue. A chapter on Bluetongue was almost completed and could be adopted in May, and the development of provisions on African horse sickness was on the work programme of the Code Commission.

119. The Chairman drew attention to the importance of this procedure in drawing the attention of the standard-setting organizations to problems faced by Members, so as to facilitate the identification of priorities for standards development.

VII. MATTERS ARISING FROM THE WORK OF OBSERVER ORGANIZATIONS

120. The Chairman thanked the OIE and the Codex for having provided written information in advance of the meeting, in documents G/SPS/GEN/305 and G/SPS/GEN/308, respectively. He encouraged other observer organizations to do the same for the next meeting.

121. The representative of the Codex secretariat drew attention to the CCFICS meeting in which the draft guidelines on the judgement of equivalence of food safety systems had been held at their current level, whereas parallel work on the judgement of equivalence of technical regulations had

been initiated. More positively, guidelines for food import control systems were finalized by CCFICS, and awaited final adoption by the Codex Commission in July 2003. To promote the work of the SPS Committee at the technical level in the area of food safety, CCFICS was up-dating the guidelines for exchange of information in food emergency situations. Furthermore, CCFICS established an open working group to discuss traceability, to be chaired by Switzerland.

122. The Codex ad hoc Task Force on Foods Derived from Biotechnology made significant progress in finalizing draft principles for the risk analysis of foods derived from biotechnology, which was an umbrella text on safety assessments. The text included provisions for product tracing to facilitate the withdrawal of foods from the market when a human health risk had been identified or to support post-market monitoring. Other elements related to traceability would be dealt with by other Codex Committees. The Task Force also finalized draft guidelines for the safety assessment of foods derived from recombinant DNA plants, including an annex on the assessment of possible allergenicity. The Codex representative believed that this text could be used by WTO Members in fulfilling their obligations under Article 5.1 of the SPS Agreement.

123. In response to questions from Argentina, the representative of Codex replied that the CCFICS working group on traceability would be hosted by Switzerland, and anticipated meeting in Fribourg, but a date had not yet been established. Members could indicate their interest in participating in the working group in the coming months. The Executive Committee considered that the work of CCFICS in this area should basically focus on technical aspects, such as the development of guidelines or other documentation that would allow the transmission of information on traceability from the competent authority of an exporting country to an importing country. It was not the task of CCFICS to decide if traceability was desirable or under what circumstances it should be used, but rather to ensure that where it was required there was a systematic means of obtaining information and providing it to the importing authority. With respect to other uses of product tracing, these would be applications related to TBT issues, and a footnote in the Codex text stated that these would need to be consistent with the SPS and TBT agreements. The representative of the United States indicated that his country would be providing administrative support for the drafting group on the judgement of equivalence referred to in paragraph B of G/SPS/GEN/308, and intended to organize this meeting prior the November meeting of the SPS Committee.

124. Agendas and working papers for all forthcoming Codex meetings were posted at www.codexalimentarius.net normally at least four months in advance of any meeting. The forthcoming meeting of the Codex Committee on General Principles (CCGP) would primarily be discussing the principles of risk analysis, that is, how Codex itself uses risk analysis and not necessarily how Member governments might use it at national level. The drafting group which met in December proposed some modifications of the draft text, which would be considered by the CCGP. The Codex Commission had clarified that Codex should not develop standards in cases where there was not sufficient scientific evidence for a full risk assessment, however the development of codes of practice or other guidance could be considered.

125. The Codex Committee on Food Labelling would meet in Halifax, Nova Scotia in May, and continue its work on the broad area of food labelling including guidelines on health and nutrition labelling and on the labelling of foods derived from biotechnology. The Codex Committee on Pesticide Residues would meet in April, and at the end of April the Codex Task Force on Fruit Juices and Vegetables Juices would meet, as would the Codex Committee on Fish and Fish Products. These committees dealt primarily with TBT issues, but did consider some matters related to the use of additives and food hygiene. In June, the Codex Task Force on Animal Feeding would meet again, in cooperation with WHO and OIE, and at the end of June the Executive Committee of Codex would meet regarding the future work programme of the Codex.

126. The representative of the IPPC reported that the ICPM had adopted four new standards at its meeting of the previous week, including a standard on regulated non-quarantine pests and a standard for regulating wood-packaging in international trade. The ICPM would now begin development of pest risk analysis guidelines for non-quarantine pests, and had agreed on the specifications for developing a standard on pest risk assessment of living modified organisms, to be done in close cooperation with the secretariat of the Cartagena Protocol. The ICPM would focus on the development of four new standards in 2002-2003, including one on the efficacy of treatment, which would provide the basis for further consideration of equivalence. The review of standards older than five years would also be undertaken.

127. The representative of the IPPC further reported that the IPPC standards committee was now in place, with 20 members based on the four FAO regions, and would continue to meet twice a year. A subsidiary body on dispute settlement, with seven members, had also been created. The IPPC dispute settlement procedures focussed on technical issues and was not legally binding, but could complement the WTO dispute resolution procedures. The Phytosanitary Capacity Evaluation (PCE) would be updated to reflect the new IPPC standards and would be translated into the five FAO working languages; it would be available from the new IPPC website. IPPC would also continue to develop its programme to increase the participation of developing countries in meetings, and to facilitate the exchange of information through a new IPPC portal.

128. The representative of the OIE reported on activities in the OIE since the last meeting of the SPS Committee (G/SPS/GEN/305). All OIE specialized committees met in January and discussed general approaches for recognizing disease-free areas and notifications. The Code Commission and FMD Commission had proposed revisions regarding FMD virus infection, as well as consideration of requests for recognition of freedom from FMD and from rinderpest. They also developed draft guidelines for assessing the BSE status of the cattle population, which would be considered by the OIE General Session in May. An ad hoc group met to discuss the hypothetical presence of BSE in sheep and goats. OIE had established a new department with responsibility for international trade, including animal welfare and food safety. Ad hoc groups would initially focus on the scope of OIE involvement on these latter issues, and collaboration with Codex was under discussion.

129. Regarding the IBD virus in poultry, the representative of the OIE recalled that OIE did not conduct primary research, but relied on research published by its members to ensure that OIE standards were in line with the latest scientific information. In January, the Code Commission considered IBDV, but noted that new information would soon be available. The OIE would establish an expert group to review the new information when it became available.

VIII. OBSERVERS

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

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

IX. ELECTION OF CHAIRPERSON

132. The Chairman informed the Committee that informal consultations regarding the chairmanship of the SPS and other Committees were still under way. He proposed that the Committee consider this matter at the beginning of its next meeting.

X. OTHER BUSINESS

Slovenia - Update of G/SPS/GEN/204/Rev.2

133. The representative of Slovenia requested withdrawal of item 51 regarding the notification of Slovenia on FMD-related measures (G/SPS/N/SVN/8), since the matter concerned an error, subsequently corrected, regarding the objective and rationale of the measure. Argentina agreed with this request from Slovenia.

Thailand - Update from Codex and EC on 3-MPCD in soy sauce

134. The representative of Thailand requested an update on the developments in the Codex Committee on Food Additives and Contaminants (CCFACs) with regard to 3-MCPD in soy sauce, as well as information of the latest decisions by the EC Scientific Committee.

135. The representative of the European Communities replied that the Scientific Committee had re-evaluated the potential toxicity of 3-MCPD, and had concluded that the risks were not as high as initially believed. A full evaluation of the toxicity of 3-MCPD was underway, pending receipt of additional information; in particular regarding exposure levels. The results of this study were expected for July 2002, at which time the EC requirement would be re-examined in light of the results of this study as well as that of the JECFA. The results of the JECFA review were expected for the spring of 2003.

136. The representative of the Codex responded that the CCFACs had the previous week discussed the subject of chloropropanols, substances which could occur in hydrolized vegetable proteins and soy sauces. JECFA had determined that the level of chloropropanols could be controlled if the levels of 3-MCPD were limited, and had developed recommended daily intake levels. On this basis, CCFACs was proceeding to develop maximum residue levels for 3-MCPD for commodities of major trade interest.

Thailand - Update from Australia on prawn and prawn products

137. The representative of Thailand sought information regarding the status of Australia's import risk analysis on prawn and prawn products from Asian countries. He noted that the original date for conclusion of the risk assessment had been June 2001. The representative of Australia replied that work on the risk analysis was continuing, and all stakeholders would be informed of the current status by letter. At the last SPS Committee meeting, Australia had explained the basis for the interim measures applied to green prawns, following the successful handling of an outbreak of White spot syndrome in Darwin. In response to requests from importers, Biosecurity Australia was conducting an equivalence assessment to determine if there were less trade restrictive alternative measures which could be applied to highly processed prawn products.

Thailand - Update from Mexico on milled rice

138. The representative of Thailand noted that a bilateral meeting with Mexico on the matter had been held earlier in the week. The representative of Mexico reported that restrictions on milled rice from Thailand had been lifted as of March 2001, however the publication of the modified regulation had been delayed but would take place within 30 days.

Mexico - Implementation activities

139. The representative of Mexico reported on APEC activities related to the implementation of the SPS Agreement. APEC members had approved a strategic plan which included as objectives the

development of infrastructure to permit fuller implementation of the WTO agreements, participation of APEC member countries in the WTO, and a programme for financing projects to meet these objectives. Mexico and China were jointly responsible for the development of projects related to the implementation of the SPS and TBT agreements. Workshops coordinated by China regarding implementation of the SPS Agreement would be held in June, July, September and December 2002. A second project involved following the activities of the SPS Committee, with the objective of improving implementation by APEC members and identification areas of regional cooperation. The first meeting would take place in Merida, Mexico, on 16-17 May 2002. The third project was to assist APEC members in the establishment and operation of SPS enquiry points. In this regard, New Zealand prepared a manual for enquiry points and national notification authorities, and symposiums on the matter would be held in Peru on 21-24 May and in Thailand on 29-31 May 2002. The representative of China indicated that his country and Mexico had the role of providing the linkage between APEC and WTO activities related to the SPS Agreement.

Bolivia - EC aflatoxin restrictions on Brazil nuts

140. The representative of Bolivia indicated that, according to instructions from his government, there had been no further progress on the matter of EC aflatoxin restrictions on Brazil nuts from Bolivia since the last meeting of the SPS Committee. He stressed that the problem arose because the EC requirements for aflatoxin levels were not based on a risk assessment, and exceeded the requirements of other trading partners. The representative of the European Communities reported that at a meeting with Bolivian officials last year, the European Commission had agreed to accept pre-shipment certification from accredited laboratories in Bolivia in order to avoid costly sampling of the product upon arrival in Europe. However, no further information had been provided by the Bolivian authorities regarding the accreditation of their laboratories nor a proposal for the pre-shipment certificate. Nonetheless, the representative of the European Communities confirmed that shipments of Brazil nuts received from Bolivia met all of the EC's requirements, and the quantity of shipments continued to grow.

China - Philippine notification on Chinese fruit

141. The representative of China recalled that the Philippines had applied an emergency restriction on imports of fruit from China, notified in G/SPS/N/PHL/35. The notification indicated that the measure was imposed because codling moth had been detected in imports of certain fruits. However, technical experts of both countries had re-identified the intercepted insect as peach fruit moth, a common pest. On this basis, the Philippines lifted the quarantine ban, but the addendum to the notification did not clarify the mistaken identification of the pest (G/SPS/N/PHL/35/Add.1). The representative of the Philippines confirmed that further investigation had revealed that the intercepted insect was not codling moth, but Carposina nipponensis, a species not previously known in the Philippines. The Philippines had lifted the temporary ban on the condition that those places identified as sources of infested exports would undertake treatment to effectively kill the insect. This decision was reflected in the addendum to the notification, although the Philippines agreed to further correct the information provided in the notification, to avoid confusion and possible unnecessary restrictions on Chinese agricultural products by other Members.

Mauritius - Application of the SPS Agreement in SADC and the Indian Ocean region

142. The representative of Mauritius reported that most of the Southern African countries were now well aware of the basic provisions of the SPS Agreement. The SADC countries had now established notification authorities and enquiry points, and notifications were regularly being sent to the WTO Secretariat. However, the private sector producers and exporters were not yet fully familiar with international requirements and the relevant international standards. The costs of implementation were problematic for the region, as was participation in the development of international standards. It

had been observed that several laboratories in the region were performing the same analyses, and a regional sharing of laboratories should be encouraged. The SADC countries had benefited from seminars and workshops on the SPS Agreement and on risk analysis, and an assessment of needs had been carried out by the Commonwealth Secretariat and ITC. In a south-to-south assistance programme, the representative of Mauritius indicated that he had participated in a technical assistance seminar in Côte d'Ivoire with participants from Benin and Burkina Faso. He welcomed the EC pesticide initiative project, and noted that the Mauritius private sector had already initiated actions to meet the EC requirements. He thanked Members and the Secretariat for the assistance they had provided to Mauritius in this area.

XI. DATE AND AGENDA FOR NEXT MEETING

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

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

144. Following the conclusion, the date of the next SPS Committee meeting was changed to 25-26 June 2002. The following deadlines are relevant:

- for identifying new issues for consideration under the monitoring procedure: **24 May 2002**
- for requesting that items be put on the agenda: **13 June 2002**
- for the distribution of the airgram: **14 June 2002**.