WORLD TRADE ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON 7-8 NOVEMBER 2002

Note by the Secretariat[1]

I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its twenty-fifth meeting on 7-8 November 2002. The Chairman of the Committee, Mrs. Maria Fe Alberto-Chau Huu (Philippines), opened the meeting. The agenda proposed in WTO/AIR/1951 was adopted with amendments.

II. IMPLEMENTATION OF THE AGREEMENT

(a) Information from Members

(i) Activities of Members

Update on FMD eradication activities in Korea

2. The representative of Korea provided an update on his country's FMD eradication activities. The first case of FMD in Korea was recorded in May 2002, and since that date a total of 16 cases had been reported, the last on 23 June 2002. Korea had submitted an application for the re-establishment of its status as a country free of FMD without vaccination to the OIE on 4 October 2002. Details of the situation in Korea are contained in G/SPS/GEN/348.

Epidemiological situation and advances in the control of FMD in Argentina

3. The representative of Argentina presented an update of the epidemiological situation and advances in the control of FMD in his country. There had been no FMD outbreaks in Argentina for over nine months, the last on 23 January 2002. Argentina had adopted measures to reduce the risk of transmission of FMD, as set out in the OIE Animal health Code, which made it possible to export boned, hung and fresh meat which contained no risk of transmission of FMD. Fifty-four countries had notified that their markets were new open to fresh bovine meat exports from Argentina. A document updating the information contained in G/SPS/GEN/323 would be circulated shortly.

4. The representative of Mali noted that for some African countries it sufficed to have a single outbreak of FMD to prevent trade in meat or in livestock from taking place, despite having taken measures to control the outbreak.

[1] This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.

Information on Paraguay's status as free from FMD with vaccination

5. The representative of Paraguay provided information on Paraguay's status as free from FMD with vaccination. Details of the situation in Paraguay are contained in G/SPS/GEN/360.

6. The representative of the European Communities reported that a decision had been adopted to restrict exports from the region adjoining the alleged outbreak on the Brazilian side of the border; no measures had been taken in relation to Paraguay. The European Communities had adopted a regionalization approach towards Paraguay, and the region from which they permitted imports was located 80 km away from the region where the outbreak had occurred. The representative of the European Communities encouraged the Paraguayan and Brazilian authorities to take decisive action to eradicate this particular outbreak.

Newcastle disease - Information on the situation in Paraguay

7. The representative of Paraguay provided information on his country's programme initiated in 1996 to maintain the country free from Newcastle disease. Details of the activities carried out by Paraguay in this field are contained in document G/SPS/GEN/ 361.

Interim Marketing Authorizations - Information from Canada

8. The representative of Canada stated that his country had decided that it would be appropriate to notify Interim Marketing Authorizations (IMAs) to the WTO, in a similar manner as proposals for new or amended regulations were being notified. IMAs were granted for the expanded use of substances that had already been approved for use in or upon food products to allow domestic and foreign manufacturers to use these substances on an optional basis while Canada conducted the formal consultation required by their regulatory policy. He emphasized that Canada would not, through this approach, avoid the transparency obligations under the SPS Agreement. A comment period would be made available to trading partners and to Canada's domestic industry at a subsequent stage of the regulatory process. Members would be advised of the comment period through an Addendum or a Revision to the IMA notification.

9. The representative of Mali sought a clarification from Canada regarding the difference between IMAs and regular marketing authorizations. He expressed that provisional authorizations might not offer sufficient safety guarantees and wondered whether this could cause a problem for exports. In response, the representative of Canada reiterated that IMAs were granted only for substances whose safety had already been evaluated, as a means of allowing trading partners, as well as their own manufacturers, the opportunity to extend the use of the substance pending the final approval.

Information provided by the United States on its Biosecurity Act

10. The representative of the United States provided information of the enactment of the "The Public Health Security and Bio-terrorism Preparedness and Response Act of 2002" on 12 June 2002, that contained some provisions that would impact directly on the exports of food, food products and animal feeds to the United States. This new law intended to provide US agencies with additional authority to address certain recognized risks to the country's food, pharmaceutical and water supplies. Specifically with regard to food, the legislation provided the US Food and Drug Administration (FDA) with enhanced authority in ensuring that all foods, other than meat, poultry and processed eggs, produced in or exported to the United States were safe.

11. The representative of the United States reported that there were four major provisions of the law applicable to food that would be implemented between December 2003 and February 2004,

namely: (i) registration of most food manufacturing and handling facilities; (ii) establishment and maintenance of certain records pertaining to the receipt and distribution of foods; (iii) prior notice to FDA of all food consignments intended for import into the United States; and (iv) administrative detention of any food when there was any credible evidence or information that it presented a threat of serious adverse health consequences to humans or animals. The FDA would develop implementing regulations to these four provisions before they became effective in late 2003 and early 2004, and all proposed implementing regulations would be notified to the Committee as they were published over the next year. Members would be given the opportunity for commenting on all aspects of the proposed regulations consistent with WTO obligations and his country's rule-making process.

12. The representative of Japan recalled that his country had already sent written comments and a questionnaire to the United States last August. Japan expected these comments to be taken into account but stated their willingness to make additional comments during the comment period, if necessary.

13. The representative of the European Communities reported that they had provided the United States with provisional comprehensive comments in August and were interested in receiving some feedback from the United States on the substantial comments already sent, in particular, in light of the serious concerns that the European Communities had with respect to the potential impact of some of these measures. The European Communities welcomed an open dialogue on this issue that would help address the common problems that might arise.

14. The representative of Belize noted that more needed to be done to explain the implications of the law at the national level. In particular, Belize sought a clarification as to whether the term *meat* included fish and fish products. The representative of the United States replied that the new legislation would apply to fish and fish products, and that there would be separate authorities for meat and other meat products.

15. The representative of Chile sought clarification on Act whether the plant registry that would apply between December 2003 and February 2004 would be of a permanent nature, and whether it would require providing supporting information, as well as carrying out consultations. Chile was also concerned about the detention of any food item that was suspect. If suspected perishable products were detained they would rot during the thirty-day waiting time, resulting in negative impacts on the exports of primary products from developing countries, notwithstanding the fact that there might have been no problem with the product to begin with. The representative of Chile sought clarification as to who would bear with the responsibility and the costs in such cases.

16. The representative of the United States clarified that to date, no decisions had been taken regarding the length of registration or the implementation of the provisions. The regulatory process would consider and evaluate different ways of proceeding with the implementation of almost all of the provisions that had been outlined through their inter-agency consultation process, to determine the most effective measures, as well as those that would be no more trade restrictive than necessary. When the bill had been enacted in June, the United States had asked for information from trading partners, as well as their domestic industry, as to how they should proceed to implement the act. The information that had been solicited by the FDA had been advisory in nature, and because they had not been issued as regulations the United States had no intention of responding to those comments. The representative of the United States urged Members to provide written comments within the time-frame identified, when the notifications to the WTO were presented because the US regulatory process required the consideration and response to each of the issues raised. He encouraged those that had continued concerns to re-submit their comments.

17. The representative of Argentina expressed interest in knowing whether the United States had evaluated the cost of implementation of the four provisions of the law applicable to food, both for

industry and the export sector, and the impact that the law would have on developing country exporters. The representative of the United States responded that no cost evaluation had been undertaken by his country, however, there was no fee for the registration and the United States hoped to set up a system whereby the registration would be done electronically to make it as simple as possible.

Information provided by Australia on its national FMD simulation programme

18. The representative of Australia informed the Committee of a major national FMD simulation programme that had been carried out in Australia during the week of 9 September 2002. The results of the simulation were going to be made public and presented to the OIE. The representative of Australia emphasized that her country remained free from FMD.

Information provided by Chile on Regionalization

19. The representative of Chile stated that despite the efforts undertaken by exporting Members, recognition of pest- or disease-free areas and areas of low pest or disease prevalence was problematic, because many importing countries did not recognize the status granted by the OIE, and the administrative procedures of importing countries were long and complex, often requiring inspections. He noted that more work on standard setting needed to be carried out by the Committee in order to avoid discrimination in the implementation of regionalization. The representative of Chile thanked the European Communities for helping his country with regionalization by setting up control zones, as well as free zones, and by helping them apply a system which was being used world-wide. He suggested that this issue and Article 6 be considered at the next SPS Committee meeting.

20. The representative of the OIE welcomed the interest of Chile in improving the effectiveness of regionalization standards. He noted that the OIE had included regionalization in the diseases where the epidemiology of the disease allowed, but recognized that there was room for improvement. He encouraged Chile to send a letter to the OIE outlining their proposal on regionalization in the international standards.

Information provided by Chile on Avian Influenza

21. The representative of Chile provided information on his country's situation regarding avian influenza, following two outbreaks that had been detected some months before. Eradication procedures had been undertaken and since June, no further outbreaks had been detected, neither in the place of the original outbreak, nor elsewhere in the country. Chile was split into two zones, with a small eradication zone situated ten kilometres surrounding the outbreak, and the rest of the country considered a free zone.

(b) Specific Trade Concerns

(i) New Issues

Honduras' import restrictions on chicken meat imports – Concerns of Costa Rica

22. The representative of Costa Rica reported that in March 2002, Honduras had applied import restrictions on poultry meat from Costa Rica admitting imports of poultry meat only from countries whose avian health status was equivalent to its own. In other words, Honduras allowed poultry imports only from countries that were free from avian influenza, avian infectious laryngotracheitis, Newcastle disease and avian salmonellosis. The representative of Costa Rica presented the technical and legal arguments in support of his country's objection over Honduras' import restrictions on chicken meat, and noted that Costa Rica's avian health status was in line with the parameters

recognized by the OIE. Costa Rica asserted that its poultry meat exports did not constitute a risk for the avian health status of Honduras, and formally requested the Honduran authorities to withdraw the restriction on the entry of poultry meat from Costa Rica. Details of the presentation by Costa Rica are contained in G/SPS/GEN/347/Rev.1.

23. The representatives of Argentina, Chile and Thailand supported the concerns expressed by Costa Rica. The representative of Chile noted that it was clear that there were problems with trade in poultry meat, and indicated that further work needed to be undertaken by the OIE in this area, in order to facilitate the movement of poultry meat world-wide. Chile requested information from the OIE on this issue, in particular concerning standards for the transmission of different avian diseases through fresh poultry meat. Chile also requested a copy of the risk assessment carried out by Honduras.

24. The representative of Honduras presented the Committee with background information on his country's decision to impose import restrictions on chicken meat imports from Costa Rica. He noted that the Agriculture and Livestock Secretariat had developed a national programme for the prevention, control and eradication of avian diseases, including avian influenza, avian infectious laryngotracheitis, Newcastle disease and avian salmonellosis. This programme had been notified to all WTO members in document G/SPS/N/HND/3. In October 2001, Honduras had notified that it had achieved free status for the four avian diseases mentioned above. Honduras had requested that Costa Rica, as well as other countries, provide the necessary documentation that guaranteed equivalence between the countries' avian health status, as well as access for technical experts to carry out the relevant inspections. His authorities had determined that the poultry health programmes of Costa Rica was not equivalent because they had been unable to carry out the relevant inspections and obtain the necessary technical information requested from Costa Rica. Honduras requested official documentation from Costa Rica regarding their claim (in G/SPS/GEN/347/Rev.1) that Honduras had recognized Costa Rica as a country free from Newcastle disease and avian influenza, and that Costa Rica was therefore in a position to export poultry meat to international markets.

25. The representative of the OIE recalled that OIE standards existed for three of the diseases under discussion: avian infectious laryngotracheitis, avian salmonellosis, and Newcastle disease, and for the highly pathogenic form only of avian influenza. The OIE standards for avian infectious laryngotracheitis and avian salmonellosis contain recommendations only for live birds, for day-old chicks, and for hatching eggs but no recommendations for poultry meat. In other words, at present there are no official OIE standards for poultry meat for these two diseases. He added that these chapters had not been reviewed for some time. The lack of a standard concerning poultry meat could mean either that there were no risks associated with trade in poultry meat for these diseases, or that the OIE had not come out with a recommendation on poultry meat which meant that trading partners would be expected to negotiate between themselves using risk analysis in order to reach science based conclusions. In the absence of an official OIE standard, the OIE had replied to a request from the Director of Animal Health in Costa Rica that there was no scientific evidence indicating that avian infectious laryngotracheitis or avian salmonellosis could be transmitted through poultry meat. He stressed that this was not an official OIE standard but a scientific opinion from the OIE. If there was sufficient trade disruption due to the lack of an OIE standard for poultry meat for these diseases, the OIE would include updating these standards in its future work programme.

26. The representative of Costa Rica recognized Honduras' efforts to improve its sanitary situation, but noted that was not the issue that was under discussion. Under discussion was whether the measure was scientifically justified and whether Honduras had carried out a relevant risk analysis. He drew attention to the statement made by the representative of the OIE that there was no scientific evidence proving that the avian diseases under discussion could be transmitted through poultry meat. In this regard, it would be to the benefit of all if Honduras shared its scientific evidence with other members of the organization. The representative of Costa Rica added that Honduras was trying to reverse the burden by insisting that Costa Rica demonstrate its disease free status regarding these four

avian diseases. He requested Honduras to respond to the questions contained in G/SPS/GEN/347/Rev.1, and reiterated his country's request that Honduras lift the measure.

27. The representative of Honduras clarified that there were four avian diseases under discussion. The scientific evidence requested by Costa Rica was contained in the OIE Bulletin, N° 6, pages 810 to 815 and would be provided to the Committee. Honduras welcomed the updating of standards by the OIE.

EC restrictions on the importation of fruit and fruit juices – Concerns of Brazil

28. The representative of Brazil raised concerns regarding the European Communities Directive 2002/71/CE, published on 19 August 2002, which established new maximum levels for dimethoate residues in and on cereals, foodstuffs of animal origin and certain products of plant origin, including fruit and vegetables. Brazil's technical and legal arguments regarding the directive which would have the effect of banning Brazilian orange juice from the European market are contained in G/SPS/GEN/355. He requested the European Communities to review the directive, taking into account all scientific information available. Brazil also requested the European Communities not to apply the same approach in the re-evaluation of 320 active substances that was now underway.

29. The representatives of Argentina, Bolivia, Cuba, the Dominican Republic, Jamaica, and Uruguay supported the arguments made by Brazil, in particular, the need for scientific justification for maximum residue levels (MRLs), and expressed concern regarding the implications for developing country exports. The representative of Jamaica also reiterated that request that the European Communities not apply the same approach as for dimethoate in the re-evaluation of other 320 active substances. The lack of set MRLs for many of the products exported by Jamaica to the European Communities would have serious consequences.

30. The representative of the European Communities stated that the document put forward by Brazil had not yet been discussed in Brussels. Dimethoate was already under evaluation by the European Communities and was one of the several hundred plant protection products which was being reassessed for its safety to the environment, animal and public health. The decision to establish a limit of analytical detection had not been lightly taken, but the scientific evidence suggested that the existing MRL was inadequate to provide for an appropriate level of health protection, and under the circumstances the European Communities had considered it necessary to adopt the measure now under discussion. The representative of the European Communities recalled that a number of years ago a recommendation had been made to the Codex Committee on Pesticide Residues to withdraw the MRL for dimethoate. He noted that this was not a popular decision within the European Communities because this substance was used by a range of EC growers of citrus and other fruit products, and they were being obliged to withdraw its use. The representative of the European Communities further indicated that the measure had been notified under the SPS Agreement (G/SPS/N/EEC/160) and that comments had been received and taken into account from a number of countries, including Brazil. He would bring to the attention of his authorities the fears expressed by several countries over the impact of the ongoing evaluation of a range of other active substances.

31. The representative of Brazil informed the Committee that the bilateral discussions held on the previous day had been fruitful. Brazil reiterated their request for a copy of the EC's scientific studies as soon as possible. He added that the issue of MRLs for dimethoate would be reconsidered by Codex at its meeting in June 2003, and requested the European Communities to suspend the implementation of this directive pending to a full assessment of the situation.

Trinidad and Tobago's restrictions on imports of pork sausages and other pork products, fresh, cured or salted – Concerns of Argentina

32. The representative of Argentina reported that the health authorities from Trinidad and Tobago had provided two responses regarding import requirements for pork products, fresh cured or salted from Argentina. The first response indicated that imports of pork products from Argentina were currently banned because of the FMD outbreak that had occurred in 2001, and that imports would not be able to resume until the health status of Argentina changed to that of a country free of FMD without vaccination. The second response stated that imports of pork products were allowed only from those countries that had FMD free status without vaccination for at least three years before the date of export. The representative of Argentina asserted that these requirements were stricter than the provisions contained in the OIE Animal Health Code. He argued that the measures lacked a scientific basis and were not proportionate to the objectives pursued. He requested Trinidad and Tobago to lift the ban and to provide Argentina with the scientific evidence that justified the measure, including an explanation as to why it deviated from international standards.

33. The representative of Trinidad and Tobago indicated that the issue of importation of pork products from Argentina had been the subject of ongoing bilateral consultations. She explained that as a member of the Caribbean Community (CARICOM) her country adhered to a regional policy for the importation of meat and meat products according to which, in the event that an exporting country had experienced an FMD outbreak, imports would only be allowed after disease-free status had been achieved without vaccination. The regional decision reflected consensus among member States. These requirements were transparent and applied in an equitable manner to all countries that had experienced FMD outbreaks. She reaffirmed her country's willingness to continue the bilateral process to seek an amicable solution to the issue.

34. The representative of Argentina stated that his authorities hoped to be able to resolve this matter bilaterally, as quickly as possible, and indicated that he would report on the progress achieved at the next meeting of the Committee.

Japan's regulation on food additives – Concerns of the European Communities

35. The representative of the European Communities indicated that his authorities had compiled a list of substances, including food additives, aromas, food ingredients and extract solvents which were not formally authorized by Japanese law, but which could constitute barriers to food products to Japan. He requested Japan to approve the list of substances that had been evaluated by the European Communities on scientific grounds, and indicated that the use of some of the additives had already been authorized by Japan for other purposes. Furthermore, all of the substances had been evaluated at the international level by the scientific committee of the Codex Alimentarius Commission. The representative of the European Communities acknowledged Japan's interest in addressing the problem and reported that a number of bilateral meetings had already taken place.

36. The representative of the United States shared the concerns expressed by the European Communities and urged Japan to consider expedited approval for these food additives that were commonly used and considered safe. He suggested that better guidance ought to be provided by Japan regarding the data they required for the approval of food additives that were commonly used around the world. The United States encouraged Japan to rely on the reviews already conducted by Codex and other countries in order to minimize trade disruptions.

37. The representative of Japan stated that a new policy for evaluating the safety and the necessity of the use of food additives and for authorizing their use had been recently enacted in Japan. His authorities were putting together a list of food additives that were considered safe and necessary to use for certain foods. The use of food additives varied from country to country depending upon

customs and habits, and a number of food additives authorized by the European Communities were not authorized in Japan and vice versa. He suggested that the European Communities consult directly with the Standard Division of the Department of Food Safety in the Ministry of Health, Labour and Welfare in Tokyo for further details regarding this issue.

China's regulation on wood packaging material – Concerns of the European Communities

38. The representative of the European Communities stated that a number of aspects of the Chinese regulation on wood packaging material, notified as G/SPS/N/CHN/14, caused serious problems. Although the Chinese authorities insisted that their legislation complied with the relevant guidelines from the IPPC, and, in particular, with ISPM 15, there were important discrepancies between the two that caused a number of problems. The European Communities had gone to considerable lengths to address the concerns of the Chinese authorities, and a lot of progress had been made in particular following a visit from a number of experts to China. He encouraged China to come into conformity with the IPPC standard, as expeditiously as possible, and to work towards resolving the issue.

39. The representative of China reported that during 2001 and 2002 large numbers of pests were regularly detected by the inspection and quarantine authorities of China in wood packaging material from the European Communities. China had notified this situation to the European Communities repeatedly, and finally decided to take emergency measures on 19 April 2002 in order to prevent the introduction of dangerous wood pests, and to ensure the protection of the environment, forestry and tourism resources in the country. The notification and the risk analysis report were sent to the European Communities for comments, to which China replied in detail on 17 June 2002. Following that date no further comments had been received from the European Communities, and that the measure had been imposed on 28 June 2002, and notified to the WTO. The measure was based on scientific principles and on a risk analysis in line with the relevant provisions of the SPS Agreement.

Japan's amendment of the food sanitation law – Concerns of China

40. The representative of China reported that China had serious concerns over Japan's amendment of the food sanitation law and the procedures followed. Japan's emergency notification G/SPS/N/JPN/84, issued on 18 July 2002, indicated that the amendment prohibiting the sale, manufacturing and import of specific food, food additives, apparatus and container/packages when considerable amounts of foods were assumed not to be in conformity with the provisions of the Food Sanitation Law would enter into force on 7 September 2002. A related emergency notification had been made on 7 September 2002 (G/SPS/N/JPN/86). The representative of China presented his country's objection to Japan's amendment of the food sanitation law, and questioned the appropriateness of the use of emergency notifications, as Members could not comment before the measure had been enforced. He requested Japan to provide the scientific evidence, including a risk analysis, in support of the measures taken.

41. The representative of Korea stated that his country had requested information on Japan's amendment on 3 September 2002, and were awaiting a timely response from Japan.

42. The representative of Japan indicated that Japan had already received precise and comprehensive comments from China on the amendment of the food sanitation law within the framework of the Trade Policy Review of Japan. Japan considered the use of the emergency notifications as being in accordance with the recommended procedures for implementing the transparency provisions of the SPS Agreement. However, having heard the concerns raised by China, Japan was prepared to further explain the amendment to China bilaterally, with the hope of finding a solution to the problem in due time.

US restrictions on imports of Chinese potted plants in growing medium – Concerns of China

43. The representative of China argued that because the United States had failed to remove its SPS measures prohibiting the importation of Chinese penjing in growing medium almost six years after the risk analysis had been finished and the protocol had been signed, exports from China had been seriously affected. The United States had relied on the excuse of domestic legal procedures and the need to coordinate work between the relevant government agencies to delay solving the problem. He requested the United States to notify its work procedures concerning the removal of measures prohibiting imports of plants and plant products in compliance with the transparency provisions of the SPS Agreement. China failed to understand why the United States had proposed to solve only the problem of the importation of one of the types of penjing plants in growing medium, instead of considering the five types for which the risk analysis had been completed. China appreciated the efforts undertaken by the United States, and hoped that a favourable solution to the problem could be reported at the next Committee meeting.

44. The representative of the European Communities supported the concerns raised by China and noted that they had run into the same difficulties with other varieties of potted plants. The European Communities urged the United States to find a rapid solution to the problem.

45. The representative of the United States noted that the issue of penjing in growing medium had been the subject of extensive discussions with China. The United States had been working actively to evaluate China's proposed importation, but the importation of plants in growing medium was more complicated from a risk mitigation perspective than importation of bare root plants. While examination of bare root plants could detect certain pests or disease problems, inspection of potted plants necessarily involved the removal of the plant from the pot and the growing medium, and could damage the plant and reduce its commercial value. Although the assessment of the risk to plant health posed by the importation of the five species of penjing was essentially concluded, other risks needed to be evaluated before determination if the importation presented an acceptable risk. US regulatory requirements for imported plants and growing medium reflected the need to prevent the introduction of pests and disease that could seriously undermine or compromise native ecosystems, as well as cultivated plants, and this work was ongoing. The 1997 protocol between the United States and China reflected agreement on the technical issues relating to production, inspection, and quarantine requirements for Chinese penjing that were necessary but not sufficient conditions for imports to occur. The protocol could not take effect until the risk assessments had been completed, and the necessary regulatory and notification processes had run their course. The United States acknowledged the importance that China attached to this issue, and indicated their commitment to reaching a mutually satisfactory resolution as soon as possible.

(ii) Issues Previously Raised

Argentina's BSE–related measures – Concerns of Canada

46. The representative of Canada recalled that at the last meeting his country had expressed concern that Argentina appeared to have copied the EC geographical risk assessment rating scheme relating to BSE without having conducted a risk assessment. At that time Canada had also expressed surprise at having been given a Level 2 ranking without Argentina having requested any data or information in order to conduct a risk assessment prior to putting the measure in place. Argentina had undertaken to resolve the issue within a matter of days following the last meeting. Canada recalled that it had provided a large body of information to Argentina in June but had not yet had a response. Canada did not have BSE and did not understand how it could have been given such a rating without any risk assessment having been conducted by Argentina.

47. The representative of the United States shared Canada's concern regarding Argentina's BSE-related measures, and recalled that they had also raised the issue at the last meeting. At that time he had reported on the completion of a risk assessment on BSE that had been conducted by the Harvard Center for Risk Analysis and encouraged Argentina, as well as other countries, to incorporate this information in any risk assessment performed regarding BSE, and to bear in mind that the United Sates was also free of BSE.

48. The representative of Argentina reported that after having reviewed the measure his authorities had decided to amend the provision in Annex II which contained the country ranking based on a risk assessment of the criteria contained in the measure. These amendments would be undertaken soon, and Argentina would inform both the United States and Canada. He further indicated that Argentina was completing its analysis of the additional information submitted by Canada, and a reply would soon be provided bilaterally.

49. The representative of Canada noted his country's appreciation for the efforts undertaken by Argentina to address this issue. Canada noted that some positive steps had been made and reaffirmed the commitment of his government to provide any further information and data that might be useful to Argentina in order to confirm Canada's status.

China's import requirements for cosmetics – Concerns of the European Communities

50. The representative of the European Communities reported good progress in resolving difficulties with China's import requirements for cosmetics. He recalled that the extensive bilateral trade in cosmetics between China and the European Communities had taken place before China introduced new provisions, and in particular protective measures related to BSE. EC experts on BSE-related risk assessment were to visit Beijing the following week. The European Communities was hopeful that good progress would be made and that this issue would be resolved before the next Committee meeting.

51. The representative of China welcomed the visit of the experts from the European Communities and noted that China hoped that the discussions would help in its review of the measure.

FMD-related trade barriers affecting EC exports – Concerns of the European Communities

52. The representative of the European Communities noted disappointment that some FMD trade barriers continued to affect EC exports because the last outbreak of FMD in the European Communities had taken place on 30 September 2001, over 14 months ago. The outbreak had been decisively eradicated, and any remaining restrictions were now unnecessary and unreasonable. He requested Members that continued to restrict EC exports under the guise of FMD protection to come into conformity with their SPS requirements. The representative of Argentina supported the comments made by the European Communities with regards to FMD-related measures taken by certain Members.

53. The representative of the European Communities expressed concern over a number of BSE-related measures taken by Mexico that had a detrimental effect on exports from Austria, although Austria had registered no cases of FMD in the course of the 2001 outbreaks. He considered that these measures were unreasonable and requested Mexico to lift them. Bilateral meetings on the matter had been unsuccessful. The representative of Mexico stated that his country recognized Austria as being FMD free but had been waiting to receive a request from Austria for plant inspections.

Indonesia's FMD-related restrictions on imports of dairy products – Concerns of Argentina

54. The representative of Argentina indicated that Indonesia allowed dairy products, other than liquid milk, from Argentina to enter the country, however, there had been some practical difficulties. In order to resolve these, Argentina had met with Indonesia and was awaiting information from the Indonesian health services.

55. The representative of Indonesia reported that import restrictions due to FMD had only been applied to fresh milk from Argentina; other dairy products including skim milk, cream, butter, cheese and yoghurt had not been restricted. A questionnaire would be sent to Argentina and as soon as the first provisions of the questionnaire were fulfilled, Indonesia would send an inspection team to Argentina. Indonesia hoped that this would lead to a resolution of the problem.

Colombia's restrictions on imports of beef meat - Concerns of Argentina

56. The representative of Argentina noted that because of the FMD outbreaks that had taken place in 2001, Colombia had closed its market to Argentine meat despite the progress in controlling the disease and notwithstanding the fact that there had been no new outbreaks in Argentina for nine months. Colombia still had not carried out inspections of 21 packing plants which Colombia claimed was necessary before trade in beef meat could resume. Argentina insisted upon the need for a timely solution to the problem.

57. The representative of Colombia stated that his government had been informed that Argentina had blocked imports of fresh flowers from Colombia. He encouraged Argentina not to link these two issues to the detriment of trade.

58. The representative of Argentina expressed concern over the response by Colombia and noted that he was not aware of any linkage to Colombian flowers. He requested Colombia to provide information as to whether it would carry out the veterinary inspections in Argentina so that beef meat exports could resume.

Japan's official control restrictions - Concerns of New Zealand and the United States

59. The representative of New Zealand presented her country's concerns with Japan's official control restrictions, detailed in G/SPS/GEN/357. New Zealand requested that Japan confirms that it would not take any action, such as fumigation, on any pest found on imported produce if that pest was already present in Japan but not under official control as defined by the IPPC.

60. The representative of the United States recalled that he had previously raised concerns over the basis and application of Japan's phytosanitary legislation, in particular with respect to horticultural products that continued to face unjustified quarantine actions at Japan's ports of entry. Even when Japan required no domestic quarantine treatment for the same species of pests, the treatment imposed on imported produce included fumigation which in many cases ruined the products. The United States considered Japan's actions to be highly disruptive of trade.

61. The representatives of Australia and of the European Communities expressed their concern regarding Japan's official control restrictions and supported the statements made by New Zealand and the United States.

62. The representative of Japan recognized that the IPPC standards should be one of the basis in a possible future quarantine system for Japan. Japan was examining whether its appropriate level of protection could be maintained by applying plant quarantine measures in line with the new IPPC definition, taking into account Japan's climate and the large volume of imports into Japan. A number

of pests were presently under study and although a final conclusion had not yet been reached, discussions were underway to identify practical measures to reduce the effects of Japan's official control measures on international trade.

Brazil's import requirements for seed potatoes - Concerns of Canada and the European Communities

63. The representative of Canada expressed concerns regarding Brazil's required certification for a pest that was not of economic significance nor of significant risk to plant health. Canada considered this to be an issue of quality that was more appropriately resolved between the buyer and the seller, and not by government certification schemes. Although Canadian technical officials were working with Brazil to complete a risk assessment, this issue was not being resolved as quickly as warranted.

64. The representative of the European Communities stated that on 13 November 2001, the Brazilian authorities had given notice of new measures on imports of seed potatoes. The European Communities were one of the main suppliers of this product to Brazil. He requested Brazil to modify its measures on the basis of the technical arguments and proposals that had been made bilaterally. The European Communities requested Brazil to postpone the implementation of these measures.

65. The representative of the United States shared the concerns expressed by both Canada and the European Communities concerning the disruption of trade in seed potatoes. The United States hoped that Brazil would revise their policy as soon as possible.

66. The representative of Brazil noted that his country had been carrying out consultations on the issue of seed potatoes for quite some time. Brazilian experts were considering a new proposal from the European Communities and hoped to provide a reply as soon as possible. The Brazilian Directive aimed at enhancing market opportunities in relation to previous regulations by creating two new categories of imports for seed potatoes. Brazil was interested in diversifying their source of suppliers of seed potatoes given the strategic importance of the sector for Brazil. Brazil emphasized that national producers were subject to the same considerations applicable to foreign providers, and his country's motivation could not be construed as aiming towards restricting market access for seed potatoes in Brazil. Brazil reiterated an invitation for the European Communities to send a team of experts to become familiar with their system, and witness the fact that national producers were subject to the same considerations as the foreign suppliers.

67. With respect to the comments made by Canada, Brazil recalled that the matter had been extensively discussed by authorities from both countries. The Brazilian legislation required that exporters of seed potatoes to Brazil had to have a certification system in place; apparently this was not the case for Canada. The representative from Brazil added that he would transmit the concerns voiced by the United States to the competent authorities.

68. The representative of Canada clarified that Canada had a certification system for seed potatoes but that Canada does not certify for minor pests that affect only quality. In response to Brazil invitation, the representative of the European Communities suggested that Brazil should send a team of experts to inspect the production and food safety conditions within the European Communities.

EC agricultural biotechnology approval procedures - Concerns of the United States

69. The representative of the United States recalled that the European Communities had been maintaining a moratorium on the approval of agricultural biotechnology products since 1998. The United States considered this moratorium to be unjustified and indicated that it resulted in approximately 1 billion dollars loss of US exports to the European Communities. He observed that senior European Commission officials had publicly stated that the moratorium was illegal. The representative of the United States indicated that despite the recent adoption of EC Directive 01/18,

the moratorium remained in place and trade continued to be blocked. The United States was of the view that the Commission had the authority and the power to act in the face of this illegal moratorium and it had chosen not to do so. The European Commission's failure to take action on this issue was a matter of growing concern to the United States. The representative of Canada said his country shared the concerns expressed by the United States and regretted the inability of the European authorities to take steps to ensure that EC member States met their SPS obligations. Canada called upon the European Communities to lift the moratorium as soon as possible.

70. The representative of Australia supported the views expressed by the United States and Canada about the lack of scientific basis for the EC moratorium. Australia was also concerned about the EC related proposals on genetically modified food and feed, and the traceability and labelling of genetically modified organisms (GMOs). She requested further information as to whether the European Communities had conducted a science-based risk assessment for its traceability regulations or based its measure on an international standard. The European Communities had confirmed in their previous responses that the research undertaken had confirmed that those GM foods and GM plants and derived products so far developed and marketed following usual risk assessment procedures had not shown any new risk to human health or the environment, beyond the usual uncertainties of conventional plant breeding, or risks that were likely to put in danger the chosen level of health or environmental protection in the European Communities. Given this explanation, the representative of Australia requested further clarification as to how, in the absence of an identifiable risk to human health, the proposed traceability system met SPS requirements.

71. The representative of the Philippines shared the concerns expressed by the United States and reiterated his country's position regarding traceability of GMOs. He noted that the European Communities had failed to demonstrate any scientific evidence that GMOs were not as safe as their conventional counterparts, and that there were not less trade restrictive measures available to manage the risk.

72. The representative of the European Communities noted that he understood the frustration of other Members that no progress had taken place since the last meeting. The European Commission and the EC member States remained determined to put in place a regulatory framework to allow GMO and GM products to be marketed freely within the European Communities and noted that the progress had been made in that respect. He requested patience and understanding on this very sensitive dossier which was being dealt with at the highest level within the European Communities.

China's import ban on products of Dutch origin - Concerns of the European Communities

73. The representative of the European Communities recalled that China had detected traces of chlorophenicol in a few Dutch exports of animal products and immediately imposed a ban on a wide range of Dutch exports. The European Communities considered this a disproportionate reaction to a problem that could have been resolved in a mutually satisfactory manner without disrupting trade. Although some progress had been made, the European Communities called upon China to increase efforts to resolve the issue.

74. The representative of China observed that other countries had faced similar problems with Dutch products. Progress had been made on resolving this matter and his country was now working to remove the ban for other products. For this purpose, China had requested the Netherlands to provide information to enable China to conduct a risk assessment, as soon as possible. He took note of the EC concerns and stated that China hoped to resolve the remaining problems as soon as possible.

Australia's restriction on pigmeat - Concerns of the European Communities

75. The representative of the European Communities noted that Australia banned imports of pigmeat from the European Communities, except Danish pigmeat subject to a specific heat treatment. He recalled that Australia had began a risk assessment for pigmeat imports in May 1998, and although the results had been scheduled for February 2000 they had not been presented and no alternative date had been set. The European Communities had formally proposed equivalent measures, but Australia had not accepted these, in violation of Article 4 of the SPS Agreement. Four and a half years was too long to wait for a risk assessment to be undertaken, and the delay was out of proportion to the objective. The European Communities requested Australia to take a decision as quickly as possible.

76. The representative of Australia indicated that her country was conducting a generic import risk analysis (IRA) of the quarantine risks and risk management options associated with disease agents that may be introduced into Australia with pigmeat imported from a number of countries, including EC member States. A technical issues paper issued early in 2001 identified a range of quarantine risks including foot-and-mouth disease, African swine fever, classical swine fever, as well as various other pig diseases. The pigmeat IRA being conducted was necessarily comprehensive and complex; Australia's pig industry had a very favourable health status. In the case of the EC exports, the risk analysis had to deal with three OIE List A diseases, as well as a number of other serious diseases present in EC member States but absent in Australia. For some serious diseases little scientific information was available and Australia had had to commission significant research to provide independent scientific information on a range of issues including the transmissibility of Porcine Respiratory and Reproductive Syndrome (PRRS). The results of some mayor research was expected to be available at the end of the year. Technical input from the European Communities on PRRS and other diseases being considered in the import risk analysis would be welcomed.

(c) Consideration of specific notifications received

G/SPS/N/BRA/65 – Pest risk assessments for imports of plant origin

77. The representative of Canada referred to Brazil's legislative requirement for pest risk assessments for all vegetable products imported into Brazil, published on 28 March 2002. While Canada did not challenge the right of Brazil to conduct pest risk analyses for imported commodities, they considered the measure as unduly restrictive of trade, in particular given that imports would be suspended on 27 November 2002, pending completion of the pest risk assessments. Canada had exported a number of products covered by this measure for a number of years without problems arising. Canada requested Brazil to allow existing trade from well known sources to continue while the pest risk assessments were being completed. In this regard, Canada was prepared to provide the information required to facilitate the early completion of any risk assessments concerning products from Canada.

78. The representative of the United States expressed concern over the new pest risk analysis (PRAs) procedures notified by Brazil. The United States did not believe that it was necessary or justifiable to ban or temporarily halt the importation of products while pest risk analysis were being conducted unless there was a specific pest risk problem that would required such drastic action. The United States also sought clarification regarding the implementation of these new requirements. The representatives of Australia, the European Communities, New Zealand and Peru shared the concerns expressed by Canada and the United States and requested Brazil to withdraw the application of the measure.

79. The representative of Brazil stated that one of the key concerns of his country was that many PRAs were open-ended, in other words the studies never came to completion. Brazil was reassessing the matter and considering alternatives to the PRAs, such as the possibility of extending the time-

frame for implementation of the measure in the case of ongoing studies, including cases where documents had already been forwarded to Brazil. The representative of Brazil requested that the United States identify its concerns in writing, so that a response could be provided by the competent authorities.

G/SPS/N/ARG/67 and G/SPS/N/ARG/68 – Pest risk assessment requirements

80. The representative of the United States recognized Argentina's efforts to develop a procedure governing the establishment of sanitary and phytosanitary requirements for products entering their territory. He sought clarification regarding several aspects of those procedures, in particular of the criteria to be used in determining whether or not a product tracing system through the production and marketing chain met the requirements of this measure. This measure also referred to mutual agreements under which Argentina authorized imports of animals and animal products. The United States was interested in learning more about existing agreements that Argentina might have concluded, as well as the criteria and procedures for future such agreements. Furthermore, the United States sought information on the role of equivalence under this measure. For example, when inspecting export establishments would Argentina recognize the overall inspections systems of exporting countries, or only verify compliance with Argentine requirements?

81. The representative of Canada stated that his country found certain elements of Argentina's measure to be unnecessarily trade restrictive, such as the requirement for an audited traceability system throughout the entire product and marketing chain for a wide range of products, live animals, reproductive material, soil dressing etc. Canada was concerned that all foreign establishments would be subject to prior inspection and authorization that was only valid for two years. This requirement provided no flexibility for cases where no risk problems were present, and could result in high costs to exporters. Canada requested information on the implementation of this measure. The representatives of New Zealand and of the European Communities supported the concerns raised by the United States and Canada and expressed a systemic interest in the issue.

82. The representative of Argentina requested the United States to provide its questions in writing. The notification was open for comments and the period for comments had been extended due to requests from trading partners. In response to the comments made by the European Communities, he noted that plants exporting meat to the European Communities were approved following a visit of EC experts, and then the conditions were maintained by Argentina.

G/SPS/N/IDN/17– Ban on hormones in animal production

83. The representative of the United States stated that the implementation of this regulation would effectively ban the use of several growth hormones and there was no scientific evidence to support this measure. US regulatory agencies had been conducting research since the 1950s on the use and safety of approved growth hormones. A concensus had been reached regarding the safety of these hormones if used with good veterinary practices. The United States requested Indonesia to put forward scientific data in support of its proposed ban. In the event that no scientific data existed, the United States requested Indonesia to reconsider this proposal as soon as possible.

84. The representative of Canada, supported by Australia and Mexico, expressed concerns regarding Indonesia's apparent import ban on live cattle and beef derived from cattle treated with synthetic growth hormones. A number of questions surrounding the risk-based nature of these measures were highlighted, particularly given the precedence established in the WTO regarding measures prohibiting growth hormones. They requested Indonesia to indicate whether it had conducted a risk assessment and to provide the details of the risk based rational for its measures.

85. The representative of the European Communities clarified its position with respect to hormones. He noted that there was a WTO finding on the issue and that it was the EC's intention to bring its legislation into compliance with the ruling of the panel. Much work had been undertaken in this regard and the European Communities expected to soon be able to ensure that the EC ban was fully compatible with the WTO.

86. The representative of Indonesia noted that his country had not yet implemented the regulation, but had notified to Members the fact that they were going to amend the decree concerning classification of veterinary drugs. Although Indonesia had not yet banned hormone growth promoters, there were some reasons to believe that growth hormones could be hazardous to human health, due in part to the fact that developed countries' consumption patterns were different to those in Indonesia. He further noted that the use of hormone growth promoters in poultry had been banned internationally.

G/TBT/N/CHN/6 – Zero tolerance for e-coli

87. The representative of the United States recognized the need for China to reduce bacterial contamination on raw meats and poultry products to the lowest achievable level but had two concerns related to this notification. The United States believed that the complete elimination of enteropathogenic bacteria in raw meats and poultry products was not achievable using existing technologies and practices and they were interested in more information related to the risk assessment that had been used as the basis for this zero tolerance. Experience in the United States had shown that carcasses of normal healthy birds and animals could still contain a variety of bacteria, including those of concern to China, but proper preparation and handling could eliminate health concerns. As the basis of China's notification appeared to be food safety and human health concerns, the United States requested that China also notify this proposed regulation under the provisions of the SPS Agreement.

88. The representative of China indicated that he had taken note of the concerns raised by the United States and would consult with the standardizing agency and take the necessary steps.

G/SPS/N/URY/5/Rev.1 – Risk assessment on BSE

89. The representative of the United States observed that Uruguay had notified its adoption of the EC BSE geographical base risk approach for classifying countries. He encouraged Uruguay to consider the US BSE-free status and the Harvard risk assessment on BSE as they considered the application of this risk profile to the United States. The United States looked forward to continuing discussions with Uruguay with the objective of reaching a satisfactory conclusion.

90. The representative of Canada indicated that his country looked forward to working with colleagues from Uruguay in providing information which would confirm Canada's status as free of BSE.

91. The representative of the European Communities highlighted that the EC risk classification on BSE was never intended to serve as the international norm. He encouraged Members to work on agreed OIE risk classifications in relation to BSE at the international level. Discussions were continuing in the OIE in that direction and the European Communities hoped an agreement would be reached by June-July 2003.

92. The representative of Uruguay indicated that his country was highly dependent on animal product exports. If BSE appeared in Uruguay it would not only affect the health and life of people and animals, but would have an economically devastating effect. He explained that Uruguay had adopted emergency measures due to the increase in the number of countries with BSE over the last year and the increased risk of introducing the disease into his country. According to OIE data, at the

end of 2000 there were 12 countries with local outbreaks, while that figure currently stood at 22. Uruguay had adopted the risk assessment criteria established by the European Communities until such time as the OIE produced a list of countries classified in relation to BSE, and would review its legislation when the OIE finished its work in this area.

G/SPS/N/CHN/10– China's Ministry of Health regulations on biotechnology

93. The representative of the United States recalled that at the last meeting his country reported that China had not notified the regulations concerning agriculture biotechnology proposed by the Ministry of Health. He expressed concern regarding the implementation dates proposed in these regulations and requested China to consider an interim period of implementation that would allow sufficient time for compliance by US exporters. The representative of Argentina shared the concerns with regard to the possible trade effects of the regulations that had been notified and indicated that Argentina had held bilateral consultations with China to discuss the possible trade effects.

94. The representative of China clarified that they had notified the draft regulation to the WTO before the last SPS Committee meeting and that during the meeting the notification had been processed by the Secretariat. He indicated that after having consulted with the Ministry of Health, the interim period could be extended for one year.

G/SPS/N/EEC/149 and G/SPS/N/EEC/150– Concerns raised by Argentina regarding responses that the European Communities circulated as G/SPS/GEN/337 and 338

95. The representative of Argentina drew attention to the 21 questions for which his country was seeking a written response from the European Communities (G/SPS/GEN/354). At this time Argentina wanted only to point out the fact that the notified version drafted by the Council did not include the amendments made by the European Parliament. Argentina enquired as to whether the latest version notified included the amendments.

96. The representative of the European Communities noted that they had received the questions from Argentina at a late date, and would provide answers to the questions in writing. He confirmed that the European Communities usually notified a draft text to the WTO to allow Members enough time to comment while the proposed regulation was being circulated in the Parliament and Council. Discussions were still underway in these two bodies and as soon as a final regulation was adopted it would be notified to the SPS Committee for information.

G/SPS/N/BRA/67 – Exports of live ostriches

97. The representative of the European Communities stated that they would bilaterally request clarification of the legal scope and scientific grounds for the measure. The representative of Brazil reported that during an informal consultation, Brazil had explained that the motives for their import restriction on live ostriches was due to the possible threats that live imports of ostriches posed to the Brazilian poultry industry. The regulation that had been notified to the SPS Committee required that the OIE existing standards for inspection, supervision and quarantine requirements, both at the point of origin and the point of destiny, be followed. He took note of the request from the European Communities to provide the necessary risk assessment for the non OIE-listed diseases and agreed to convey this request to the relevant authorities.

G/SPS/N/PHL/44 – Certification of meat and dairy plants

98. The representative of Canada expressed concerns about the effects of the memorandum order MO7 from the Philippines Department of Agriculture, noting that it would have serious effects upon its exports of meat and dairy products. While Canada did not quarrel with the requirement that

imports be produced in plants applying HACCP procedures and that there be a certification to this effect, it was not clear whether Philippine producers were subject to similar requirements. The requirement of a third party independent certification was unwarranted and not the least trade restrictive option. Canada's governmental authority, the Canadian Food Inspection Agency, was prepared to certify that exports to the Philippines had been produced in HACCP compliant plants and there was no need for additional certification by a third party.

99. The representative of the European Communities supported by Australia, Korea, New Zealand and the United States expressed their concerns regarding the Philippine's certification requirements of meat and dairy products. The EC certification requirements already put a lot of emphasis on HACCP compliance. Australia felt that the Philippine's proposed measures were not in accordance with SPS obligations. Many Members felt that third party certification was unwarranted and unjustified. In this regard, they urged the Philippines to defer these proposed measures pertaining to inspection and certification requirements of meat and dairy products.

100. The representative of the Philippines clarified that certification of HACCP compliance by third party auditors was required in the light of several documented cases of contaminated products entering the country. His country was concerned that not all shipments came from well established HACCP compliant plants. The measures were not meant to replace or duplicate the exporting country's inspection system but to complement it. The Philippines believed that appropriate and sufficient time had been provided to trading partners and foresaw no problem that trade restrictions might occur especially for countries claiming to be HACCP compliant. The representative of the Philippines indicated that HACCP was a universal guideline approved and propagated by FAO and WHO. He had taken note of the comments made and discussions would be pursued with those concerned with a view to finding an acceptable solution.

Update of G/SPS/GEN/204

101. The Secretariat recalled that it had been agreed that G/SPS/GEN/204, which contained a summary of all specific trade concerns raised since 1995 in the Committee, would be updated on a regular basis. The next update would be undertaken before the first Committee meeting of 2003. Members were requested to inform the Secretariat of issues that had been resolved bilaterally but not notified to the Committee, by the end of 2002.

(d) Any other matters related to the operation of the transparency provisions

102. The Chairperson noted that notifications received since the last Committee meeting were summarized, on a monthly basis, in documents G/SPS/GEN/336, G/SPS/GEN/340 and Corr.1, G/SPS/GEN/341, and G/SPS/GEN/342 and Corr.1. The most recent list of National Notification Authorities was contained in G/SPS/NNA/4 and the most recent list of National Enquiry Points in G/SPS/ENQ/14. No Member had yet submitted a notification of the recognition of equivalence, according to the format contained in G/SPS/7/Rev.2/Add.1.

Report of informal meeting on transparency

103. The Chairperson recalled that informal consultations had been held prior to the Committee meeting to discuss an informal proposal made by Egypt to include a new box on special and differential treatment in the standard notification format and a Canadian proposal on enhancing transparency of special and differential treatment (G/SPS/W/127). At the informal consultations, Canada had explained that under its proposal special and differential treatment would be notified ex post in the form of an addendum, i.e. once the importing Member and the developing exporting Member had found a solution to a problem identified by the exporting country. Such a solution might take the form of special and differential treatment, technical assistance, or an adjustment to the

measure on an MFN basis. Canada noted that although an importing country could probably not identify possibilities for special and differential treatment in advance, it could try to find a solution to a problem identified by a developing country exporting into its market. Notification of this solution might encourage other Members to address similar concerns. Canada stressed that unless a developing country expressed an interest and identified problems related to a notified measure, their concerns could not be addressed. In this context, Canada noted that it had never received such a request for special and differential treatment.

104. The Chairperson further reported that Egypt, while appreciative of Canada's proposal, explained that it did not fully address its concern to operationalize Article 10 of the Agreement. Canada's proposal did not specify the desirable result of the bilateral consultations to be held, and contained best endeavour language. Egypt believed that it was possible for an importing country to provide information in its initial notification, and that providing this information should be mandatory where national regulations went beyond international standards. Information to be provided could include: a list of countries that had exported the product in question during the last 3 years, and the value of trade involved; the technological requirements necessary to comply with the new regulation; the types of special and differential treatment the importing country was ready to provide, including for example the timeframe for Article 10.2; and the types and sources of technical and financial assistance that could be provided. A number of Members supported the Egyptian proposal. One Member noted that the special and differential treatment should be provided on an MFN basis. Other Members invited Egypt to provide its proposal in writing to enable its further consideration.

105. The Secretariat had noted that provision of special and differential treatment was not normally reported. However, it was aware of certain instances in which developing country Members had identified difficulties with proposed measures, as when the European Communities notified changes in its aflatoxin regulations. In this case, the timeframe for application of the regulation had been extended, proposed aflatoxin levels for some products had been revised, and sampling procedures had been modified. Technical assistance had also been provided to certain countries.

106. The Chairperson stated that one Member had provided an example of a trade problem that had been resolved as a result of consultations with the importing country. Yam exports had been interrupted because MRLs for certain pesticides had not been established. However, after discussions, the importing Member agreed that the relevant MRLs applied to sweet potatoes would be extrapolated for use on yams, and trade had resumed. The Chairperson recalled that several Members had stated that special and differential treatment in the SPS context was different from other areas; and that technical assistance was a more appropriate way to address the needs of developing countries. Several Members had highlighted the difficulty of determining what constituted special and differential treatment, especially where solutions were applied on an MFN basis. One Member stressed that what was important was to find practical solutions to trade problems, whether these solutions consisted in special and differential treatment, technical assistance or modifications to proposed measures on an MFN basis.

107. After the report by the Chairperson on the informal meeting, the representative of Canada called on Members to consider agreeing to the Canadian proposal at the next meeting as an "early harvest" in implementing the special and differential treatment provisions of the Agreement. On behalf of ASEAN, the representative of the Philippines stated that it was in the process of studying the Egyptian and Canadian proposals and would comment in due course. The representative of Egypt indicated that his country's preference to hold further discussion on both proposals before any interim or final agreement was reached. The Committee agreed to continue discussing this matter at an informal meeting to be scheduled prior to the next regular meeting of the SPS Committee.

China's notifications of SPS measures

108. The representative of Canada raised concerns regarding China's notifications of SPS measures. While recognizing that China had made significant efforts to implement its transparency obligations, there were still certain measures not notified, a lack of feedback on comments made to the Chinese authorities on their notifications, and notifications circulated very close to the date of entry into force. He cited G/SPS/N/CHN/15 as a particular case in point. The representative of the United States supported Canada in its concerns over Chinese notification practices.

109. The representative of Mexico shared the concerns of Canada and the United States about China's transparency, but stressed that these problems were not limited to China. Analysis by the Mexican authorities showed that late notifications of measures with limited comment periods, or notification of measures that were already in place, was commonplace. He suggested that the issue of late notifications and the use of emergency notifications for routine situations (as opposed to ones where an unexpected event of urgent health protection had arisen) merited further discussion at a future SPS Committee meeting.

110. The representative of China agreed with Mexico that the problem of late notifications and over-use of emergency formats was wide-spread. China had implemented its transparency obligations through MOFTEC as the notification authority and AQSIQ as the national enquiry point. He stressed that China had made significant efforts to implement its transparency obligations and recalled that staff at both MOFTEC and AQSIQ had undergone training and that further training was foreseen. China had made 140 notifications of existing measures at the time of accession to the WTO and had made 15 notifications of new measures since joining. Notifications of new measures had been delivered to the WTO Secretariat with a 60-day comment period; any reduction in the comment period was most probably due to delays in processing by the Secretariat. He offered to provide the Committee with a detailed analysis of the comment periods on Chinese SPS notifications.

111. The Secretariat stated that the normal delay between receipt of a Member's notification and its circulation to all Members was 2-3 days. The Secretariat also echoed the concern raised by Mexico noting that many Members did not respect the recommended notification procedures by allowing a 60-day comment period for routine notifications.

III. THE SPS AGREEMENT AND DEVELOPING COUNTRIES

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

112. No issues were raised under this agenda item.

IV. EQUIVALENCE - ARTICLE 4

(a) Report of the informal meeting on equivalence

113. The Chairperson reported on informal consultations held prior to the SPS Committee on the issue of equivalence. Informal discussions focussed on the three points regarding clarification of specific paragraphs of the Decision.

Clarification of the provisions of paragraph 5

114. The Secretariat had prepared a note on the clarification of paragraph 5 (G/SPS/W/121), and Argentina submitted written comments on the Secretariat note (G/SPS/W/123). In its paper, Argentina suggested that the Committee should go beyond the recommendations set out in the Secretariat paper, in particular to develop guidelines for accelerated procedures for the recognition of

equivalence of products historically traded; to provide for follow-up and analysis in the SPS Committee of the guidelines on the judgement of equivalence developed by the three standard-setting organizations; and to provide for consideration of any notifications received regarding agreements recognizing equivalence, to enable the Committee to examine the question of practical implementation of Article 4.

115. Argentina had explained that paragraph 5 established a principle, and a number of issues needed to be clarified to allow for implementation of this principle. The current paragraph 5 was insufficient to help developing countries negotiate the recognition of equivalence. In Argentina's view, guidelines should first identify the variables which determine whether equivalence procedures would be simplified; second identify how these variables determined simplification of the procedure; third identify the rights and responsibilities of the importing and exporting countries; and fourth clarify the results and expected effects of this simplification of procedures.

116. The Chairperson further reported that other Members, while prepared to accept the recommendations contained in the Secretariat note, remained to be convinced that further work was necessary. In particular, a number of Members expressed reservations about the SPS Committee analyzing or second-guessing the work undertaken in three standard-setting organizations (Codex, OIE and IPPC). Regarding the preparation of detailed guidelines for equivalence procedures, several Members felt that this work should be carried out in the standard-setting organizations, and mentioned that such work was included in the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) work on judgement of equivalence. One Member pointed out that the Committee could already discuss equivalence notifications at its meetings, and that no further recommendation was necessary in this regard. Another Member was of the opinion that some of the recommendations in the Secretariat note could be strengthened or clarified.

117. At the informal meeting, one Member had stated that three types of situation in the context of paragraph 5 could be distinguished. The first was a situation where the exporting country's products were in conformity with the importing Member's measures; in the second case the exported products were not in compliance with the importing Member's measure because equivalence had been recognized; and in the third instance an exporter was proposing a new measure which it wanted to be recognized as equivalent. In this third situation the existence of historical trade was relevant.

118. One Member had suggested that consideration of Article 4 came only after Articles 2, 3 and 5 had been fulfilled. Whenever a new measure was proposed, there was a need for an iterative discussion of these Articles and comparative risk profiles. These discussions should take place before more formal discussions under Article 4 were initiated, yet the three sister organizations were working on Article 4 only.

Clarification of the provisions of paragraph 5

119. Following her report of the informal discussions on transparency, the Chairperson invited Members to consider the recommendations contained in G/SPS/W/121. The Committee agreed on clarification of the provisions of paragraph 5, as contained in document G/SPS/19/Add.1.

Clarification of the provisions of paragraph 6

120. The Chairperson reported that informal discussions of paragraph 6 were based on a note prepared by the Secretariat (G/SPS/W/122), summarizing Members statements that while a request for equivalence should not in itself be a reason to disrupt trade, the existence of such a request should also not preclude Members to take measures that are necessary to protect health. One Member, with widespread support, suggested that the OIE and IPPC should also be encouraged to consider this paragraph in their work on equivalence.

121. The Committee agreed on clarification of the provisions on paragraph 6, as contained in document G/SPS/19/add.1.

Clarification of the provisions of paragraph 7

122. The Chairperson further reported that in the informal discussions Members had considered a new non-paper submitted by Australia, in addition to previous papers prepared by Australia and Argentina. Australia's paper suggested that judgement of whether an exporting country's measure met the importing country's appropriate level of protection required an objective basis for comparison of alternative measures. Australia further pointed out a number of issues which dealt with information to be provided by the importing Member, and provided an update of developments in Codex. A number of Members noted that this issue would be considered by CCFICS at its December meeting, and suggested that the Committee revert back to this issue at its next meeting. One Member raised the issue of national treatment, and questioned whether the level of protection referred to in paragraph 7 was a Member's appropriate level of protection.

123. Following the Chairperson's report, the Committee agreed to continue discussions on paragraph 7 at an informal meeting to be scheduled prior to the next regular meeting of the SPS Committee. Members also agreed to invite the observer organizations to participate in that informal meeting.

(b) Information from Members on their experiences

124. The representative of Guatemala recounted the experience his country had to date in negotiating an equivalence agreement with Mexico on soft fruit, such as raspberries, blackberries and blueberries. The issue arose after Mexico initially required that soft fruit from Guatemala be treated with a chlorine wash in response to an outbreak of cholera in the region. Chlorine washing had a negative effect on the marketability of Guatemalan fruit, and according to the Pan-American Health Organization, soft fruit did not constitute a risk for the spread of cholera. In October 2001, Guatemala requested that Mexico recognize its control measures, set out in the Integrated Environmental Protection Act, as being equivalent to the chlorine wash. In June 2002, a Mexican expert mission visited Guatemala and found that the measures taken there were equivalent to the chlorine wash. However, the Guatemalan authorities had subsequently been told that they would have to petition the Mexican Health Secretary before equivalence could be granted. The representative of Guatemala noted that this problem constituted a barrier to his country's exports, and hoped that a positive outcome could be reported at the next SPS Committee meeting. The representative of Argentina expressed her appreciation for the presentation made by the representative of Guatemala as it highlighted how administrative procedures could be a serious barrier to trade.

125. The representative of Chile noted that the concept of equivalence remained unclear. Nevertheless, the European Communities had recognized Chilean measures as equivalent with regard to ovine exports, pesticide residue testing and organic production.

(c) Information from relevant observer organizations

126. The representative of Codex recalled that CCFICS had not been able to agree a final text on "Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems" at its last meeting. A drafting group, headed by New Zealand, had been formed to present draft guidelines for discussion at the 3-6 December 2002 meeting of CCFICS to be held in Adelaide, Australia.

127. The representative of the IPPC stated that the Interim Commission on Phytosanitary Measures (ICPM) had agreed to add the topic of equivalence to its work programme. In the first instance, the

ICPM had appointed a working group to begin work on a concept standard on the efficacy of measures, which would form the basis for future work on equivalence. The concept standard on equivalence was a centrepiece of the IPPC's work in the coming year and a temporary staff member had been appointed to work on this topic.

128. The representative of the OIE stated that the OIE would be revising the draft guidelines it had already circulated to its members on the basis of the outcome of the CCFICS meeting in December. He noted that comments were solicited on the draft guidelines and requested that representatives bring the guidelines to the attention of their national authorities. The draft guidelines would be formally discussed at the next General Session of the OIE in May 2003.

129. Commenting on the presentations by the three standards' organizations, Canada expressed concerns as to the budgetary situation of the IPPC, given its increased workload and growing demands for technical assistance. Canada, supported by the European Communities, suggested that Members should press the Food and Agriculture Organization (FAO) to increase the budget available to the IPPC Secretariat. In response, the representative of the IPPC stated that the FAO recognized that a funding problem existed at IPPC and that it had been addressed in September when a medium term programme for the IPPC had been drawn up. The FAO Council, which had met the week prior to the SPS Committee, had agreed as to the need for further resources for the IPPC.

V. REPORT TO THE TRADE NEGOTIATING COMMITTEE.

130. The Chairperson recalled that paragraph 12 of the Doha Ministerial Declaration (WT/MIN(01)/DEC/1) stipulated that WTO bodies which had received a mandate to address an outstanding implementation issue were to report to the Trade Negotiations Committee (TNC) by the end of 2002. The SPS Committee had received the mandate to "develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures" (paragraph 3.3 of the Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17)). Consideration of such a report to the TNC was also foreseen in the Committee's work programme on equivalence (G/SPS/20). A second issue to be addressed in the report to the TNC was Brazil's proposal regarding the notification of SPS measures

131. The Chairperson indicated that she intended to submit a report on her own responsibility in which she would briefly recall the Brazilian proposal, and report on the changes to the transparency procedures that were adopted by the Committee at its March meeting, drawing special attention to the recommendations for submitting addenda and revisions when there are changes to a notified measure. With respect to equivalence, she would report on the Committee's work programme and progress to date, drawing attention to the format for the notification of determination of the recognition of equivalence of SPS measures that was adopted at the June meeting. The report to the TNC was subsequently circulated as G/SPS/24.

132. The representative of Brazil stated that his authorities were still evaluating the amendments which had been made to the recommended notification procedures and expected that Brazil would table a proposal in this regard at the next meeting of the SPS Committee. In reply to a question from Argentina, the Secretariat clarified that while the Committee was not mandated to provide further reports, the TNC could request additional information at any time.

VI. TECHNICAL ASSISTANCE AND COOPERATION

(a) Replies to the technical assistance questionnaire

133. The Chairperson noted that 27 Members had responded to the technical assistance questionnaire (G/SPS/W/113), and the replies were contained in G/SPS/GEN/295 and addenda. Since

the last meeting, China, Gambia, Guatemala, Honduras, Mauritius, Panama, Senegal, South Africa, Sri Lanka and Yugoslavia had either replied to the questionnaire for the first time, or provided a revision of their reply. The Chairperson emphasized that Members that had not been able to meet the original 31 January 2002 deadline for completion of the questionnaire, were not precluded from completing the questionnaire and returning it for consideration at the next meeting of the Committee. She recalled that when completing the questionnaire, Members should pay particular attention to the note prepared by the Secretariat on the typology of technical assistance (G/SPS/GEN/206).

(b) Technical assistance activities

134. The Secretariat reported on its technical assistance activities since the previous meeting of the Committee. On 5 November 2002, the WTO had held a seminar on technical assistance and capacity-building related to the SPS Agreement. The workshop heard presentations by representatives of the FAO (including Codex and IPPC), OIE, UNCTAD, UNIDO and the World Bank, representatives of regional organizations (SADC, APEC, IICA) and the experience of two developing country Members, Mauritius and the Philippines. In addition to the presentations on technical assistance activities of these organizations, the Chairman of the International Commission on Phytosanitary Measures presented a particularly useful needs diagnostic tool, the Phytosanitary Capacity Evaluation. The presentations underscored the significant and varied on-going activities with respect to technical assistance and capacity building at both national and regional level.

135. Key messages emerging from the seminar included the importance of a needs-focussed approach; differences between countries and regions regarding their technical assistance needs; the need to avoid duplication of effort and to improve coordination and cooperation among donor agencies; and the need for a holistic approach to technical assistance and capacity-building. The World Bank representative gave an overview of the newly established Standards and Trade Development Facility (STDF) which involved the FAO, OIE, WHO, World Bank and WTO. These five agencies had issued a joint statement in Doha on the "Participation of Developing Countries in the Development and Application of International Standards, Guidelines and Recommendations on Food Safety, Animal and Plant Health" (WT/MIN(01)/ST/97). Through the STDF, these agencies sought to better coordinate their efforts to provide targeted technical assistance and capacity building in the SPS area. One conclusion emerging from the seminar was that the review and updating of the legal framework for SPS measures was an extremely important obstacle to implementing SPS measures in developing countries.

136. The Secretariat also reported on its involvement in technical assistance activities in Zambia, the Russian Federation, Dominican Republic, Barbados, Tunisia, Paraguay and Cuba, and forthcoming activities in Lesotho and Angola. Members were also reminded that the Secretariat had produced a CD-rom on the SPS Agreement as a teaching tool.

137. The representatives of Paraguay, Uruguay, the Dominican Republic, Cuba and Barbados thanked the Secretariat for the technical assistance activities held in their countries. Uruguay and the Dominican Republic also thanked the US Department of Agriculture and the Inter-American Institute for Cooperation on Agriculture (IICA) for their assistance in organizing these SPS activities. The representative of Uruguay stressed the need for greater cooperation between regional and national organizations, for greater focus at political level on these issues and for the involvement of the private sector in SPS technical cooperation activities. Technical assistance to adapt legislative and regulatory frameworks was difficult but promised results, and he noted the FAO's work on food legislation in this regard.

138. The representatives of Mexico and Argentina spoke of the need for technical assistance to help Members understand and meet their SPS rights and obligations. The representative of Mexico echoed the comments of Uruguay and stated that perhaps the traditional workshop approach had run

its course. He noted the problem of retaining trained staff in the public sector due to low pay, and referred to document G/TBT/W/189 which set out Mexico's experience in more detail. The representative of Mexico suggested the development of an instruction manual for new employees in the SPS/TBT area so as to ensure that government agencies were not left in difficulty when a trained staff member departed.

139. The representative of New Zealand referred to document G/SPS/GEN/352, which outlined technical assistance activities undertaken by his country in the SPS area since 1995. The representative of Codex indicated that document G/SPS/GEN/344 outlined the activities of Codex on technical assistance. In this context, the IPPC noted that it offered three main forms of assistance: regional training events (often in conjunction with the WTO); technical assistance projects up to a maximum value of US$455,000 and duration of two years of which 11 had been undertaken to date; and the Phytosanitary Capacity Evaluation tool (which would soon be available on CD-rom). IPPC members were currently evaluating a project on capacity building in biotechnology and food safety.

140. The representatives of the Philippines, on behalf of ASEAN, supported a change in focus to a client driven and product-specific model of technical assistance delivery which could encompass a wide range of hard and soft infrastructure. He further suggested consideration of the provision of technical manuals explaining new measures, identification and transfer of appropriate technology and information sessions for exporters.

141. The representative of Indonesia recalled the important bilateral technical assistance programmes being run by Australia and New Zealand in his country, particularly with regards to pest risk assessment. He noted that the tragic events in Bali had curtailed many activities but hoped that they would not lead to postponements in technical assistance delivery.

VII. MONITORING THE USE OF INTERNATIONAL STANDARDS

142. The representative of the United States referred Members to document G/SPS/GEN/343 in which the United States proposed that the Committee consider requesting that the OIE revise Chapter 2.1.14 of the International Animal Health Code to include procedures for low-pathogenic strain of avian influenza. The code currently deals only with highly pathogenic avian influenza. The representative of the OIE stated that an expert meeting group on avian influenza had been held in Paris the week before the SPS Committee. He noted that several Members had requested that the chapter of the code dealing with Avian Influenza be expanded to cover low pathogenic strains and frequently traded products. He further stated that recommendations of the expert group would be passed on to the Codex Committee at the end of November and for discussion at the General session of the OIE in May of next year. In this context, the representative of Japan informed the Committee that his country presently allowed the importation of poultry products from three states of the United States and that technical discussions would be held on December 19-20 in Paris

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

143. The Chairperson recalled that at the June 2002 meeting of the Committee, Members had been invited to raise relevant questions to China well in advance of the November Committee meeting. China had indicated that it might also address questions to other Members regarding their SPS measures. Chinese Taipei, the European Communities and the United States had submitted questions in advance (G/SPS/W/124, 125 and 126 respectively).

144. The representative of China made a statement on China's SPS-related activities since accession. Fulfilling China's commitments had been a challenging task, however China applied SPS measures only to the extent necessary to protect life or health, and had made every effort to base its

SPS measures on international standards, guidelines and recommendations. Where there was deviation between international standards and Chinese SPS measures, sufficient scientific justifications could be provided.

145. Immediately after accession, the Chinese Government had established China's WTO Notification and Enquiry Center under the Ministry of Foreign Trade and Economic Cooperation (MOFTEC). MOFTEC served as the focal point to fulfill notification obligations, including SPS notifications, and to provide trade-related information in response to enquiries from individuals, enterprises and WTO Members. Pursuant to paragraph 3 of Annex B of the SPS Agreement, the International Standard and Technical Regulation Center of the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) had been designated to be China's SPS enquiry point. This institutional arrangement reflected the importance China attached to transparency, and had ensured timely notifications of SPS-related measures. Detailed information regarding the China WTO Notification and Enquiry Center and China's SPS enquiry point had been provided to the WTO in early 2002.

146. China had begun to sift its existing SPS-related laws, regulations and administrative measures well before accession, resulting in 140 SPS notifications made in February and March 2002, pursuant to Article 14 of China's Protocol of Accession. Aside from the notifications, China also promptly responded to questions regarding those notifications by supplying relevant SPS documents upon request. With regard to new SPS measures, China had also faithfully fulfilled its obligations under the SPS Agreement. Pursuant to Article 7 and Annex B of the SPS Agreement, China had notified 15 new or revised SPS measures. Comments from other WTO Members on these notified measures had been taken into account and responsible authorities had tried their best to reflect these comments, if reasonable and justifiable, in the final adoption of the SPS measures. For example, following comments and information from the European Communities and the Netherlands on China's import ban on Dutch products of animal origin due to chloramphenicol contamination (G/SPS/N/CHN/5), China had allowed some products such as certain kinds of sea fishes, sea molluscs, edible eggs and egg products to be imported. China also published promptly its newly adopted or revised SPS regulations and measures, as required by Annex B of the SPS Agreement, in the "Gazette of the Ministry of Foreign Trade and Economic Cooperation" and the "Gazette of the General Administration of Quality Supervision, Inspection and Quarantine". These new SPS regulations and measures were also available at the websites of the AQSIQ, Ministry of Agriculture, Ministry of Health, and the SPS Enquiry Point.

147. The representative of China emphasized that, because of the great challenges related to accession, capacity building had been of the utmost importance, particularly in technical fields such as the SPS Agreement. A series of materials had been translated and published in the Chinese language, and seminars and training courses had been organized for officials at various levels. China expressed its appreciation to the Secretariat, other international organizations and WTO Members for their support in this respect.

148. The representative of China indicated that his general introduction had addressed some of the questions raised by Members in advance of the meeting. China had categorized the remaining questions and would provide responses by subject. Regarding harmonization, China had taken many steps to base its SPS measures on international standards. First, Article 10 of the "Law on Standardization of the People's Republic of China" stipulated that relevant international standards should be taken into account while developing national standards. Second, in 2001, the Standardization Committee of the People's Republic of China (SAC) within AQSIQ had been established. This Committee was specifically responsible for the administration of standardization in the whole country, for promoting an active participation in international standard-setting activities and for alignment of national standards to international standards.

149. Third, AQSIQ had promulgated "Rules on Management of Adopting International Standards" in Decree No.10 in 2001. The Rules stipulated explicitly the principle and procedures for adopting international standards: (i) determine if Codex, OIE or IPPC have adopted a related international standard; (ii) if a relevant international standard existed, the Chinese standard should be the same or equivalent to it, except in cases where there was sufficient scientific evidence; (iii) a working plan for adopting the international standard should be presented to SAC; (iv) after the proposed standard was ready, it should be published for public comments and the relevant organizations or specific standard committees proposing the standard should take into account the comments from the public; (v) the proposed standard should be notified to Members for comments if it was not based on existing international standards and had a significant effect on international trade, and the comments from Members should be taken into account; and (vi) the standards should be released after being adopted.

150. Fourth, in July 2002, SAC had worked out a target for adoption of international standards. By the end of 2005, the ratio of national standards based on international standards should reach 70 per cent on the whole and 75-80 per cent in important fields such as SPS. Fifth, to conform to international standards, existing standards were being reviewed and modified. The Ministry of Health was reviewing dozens of food safety standards which were not in conformity with Codex standards.

151. Regarding consistency, the representative of China noted that China was a centralized country, and the constitution and the current legal and standard system could effectively ensure nationwide uniform implementation of laws, regulations, national standards and the WTO Agreement. Local SPS regulations and standards which did not conform to national laws, regulations and standards, as well as to the WTO Agreement, would be withdrawn by the central government.

152. On risk assessment, the representative of China explained that at the beginning of the 1990s, China had participated in the drafting of the international standard of phytosanitary measures regarding pest risk analysis. China was one of the first developing country Members to conduct pest risk analysis. New SPS measures had been developed and import bans on a variety of agricultural products had been lifted based on risk assessments. In 2001, the National SPS Risk Assessment Committee led by AQSIQ had been established to promote the development of risk assessment in China in accordance with international standards. In concluding his statement, the representative of China indicated that the interim review process was a useful forum for clarification and information exchange.

153. Several Members acknowledged the efforts required of China to comply with its WTO obligations, expressed their appreciation for the information provided and requested written copies of the statement. The representative of Chinese Taipei indicated that in its written questions it had requested clarification of the quarantine procedures for imported fresh fruits. He was not sure this question had been addressed in China's statement. Chinese Taipei indicated that China's smooth implementation of its commitments was in the best interest of all Members, including China itself.

154. The representative of the European Communities indicated that it had raised a number of issues whose clarification would be mutually advantageous to facilitate trade. The European Communities recognized that China might require time to reflect on these questions and looked forward to a written response to the EC questions.

155. The representative of New Zealand noted the steps China was taking to meet key principles of the SPS Agreement, including harmonization, equivalence, risk assessment and transparency. New Zealand encouraged China to remedy those areas where China was not in compliance with its WTO commitments, and to ensure that any new measures introduced were consistent with its obligations under the SPS Agreement. New Zealand looked forward to continuing a fruitful exchange of views on SPS matters, in both bilateral and multilateral contexts.

156. The representative of the United States noted that many of its questions had been addressed in China's statement, including those regarding pest risk assessment and harmonization. The United States had also raised specific questions, for example related to quarantine inspection permits and raw meat and poultry standards. The United States hoped that China could provide a response to these questions in sufficient time for the review mechanism to be completed by the SPS Committee before the end of 2002.

157. The representative of Chile highlighted that Chile had agreements on animal and plant health with China to further the principles of the SPS Agreement, and was working on the recognition on pest-free areas in accordance with Article 6. Recently Chinese technicians had visited Chile to certify its condition as free from fruit flies. There had been great progress on the technical level, and Chile was awaiting administrative progress to finalize the recognition process.

158. The representative of Australia emphasized the positive SPS relationship between Australia and China. Australia was bilaterally pursuing several issues regarding access for some animal and plant products to China. There were a number of outstanding bilateral issues whose solution had been protracted, but Australia remained hopeful that they would soon be sorted out. Australia appreciated China's commitment to address systemic challenges in its implementation of the SPS Agreement related to consistency, transparency, the use of international standards, the use of least trade-restrictive measures and matters related to non-discrimination. Australia had been pleased to be amongst those assisting China in its SPS training programmes and would soon welcome a visit by Chinese quarantine authorities for work on SPS matters.

159. The representative of Thailand informed the Committee of concerns similar to those expressed by Chinese Taipei regarding the delays in receiving import permits for agricultural products, especially fresh fruits. Thailand's exports of fresh fruit and vegetables to China had declined after China's accession to WTO. Thailand requested written explanations from China.

160. The representative of China replied to some of the comments raised by Members. Regarding the US question on meat standards related to *Escherichia Coli* and other bacteria, China's standards in Article 10 of its food sanitation law provided that meat and other food must not be contaminated by disease-causing organisms. The procedures for obtaining import quarantine permits had been notified according to Article 14 of the Protocol of Accession. Importers in China filled out application forms and sent them to the local quarantine bureau for a first consideration. If the permits were for imports of specific animals, plants or foods, the quarantine permit covered a combination of disease and food safety issues. If there was any prohibition on imports from overseas, the importers need not go further. Otherwise, the application form would subsequently be submitted to AQSIQ for final approval. There was no limit on the amounts of products covered by one application. In the case of fresh fruit, the same system applied. Furthermore, there was no restriction on which ports could import fruits unless there were no inspection facilities or unless agreed bilaterally.

161. Regarding four US meat plants, from December 2001 until March 2002, China had twice found E. coli O157 on meat from two plants, and had also twice found other disease-causing organisms on meat from the other two plants. China had immediately notified US authorities and was working on lifting the bans on products from these four plants. China looked forward to receiving responses from its US counterparts and was confident that the problem could be solved through bilateral discussions.

162. Regarding the US concerns about treatment of Alaskan logs, the representative of China explained that imports of logs were permitted from countries that did not have appropriate facilities for log treatment on condition that the arrival ports in China had these treatment facilities and the capability to address risks of pests entering into China. Pest species in logs imported from Russia were similar to those in China, and logs exported from Russia could be treated at the border in the

north of China. Logs from Alaska could so far not be treated in the same manner due to a high risk of pest introduction since Alaska had a different ecosystem from China. However, relevant Chinese ports did not yet have the necessary treatment facilities. Chinese and US experts were currently discussing these issues. The United States had agreed to establish a research project for log treatment in Alaska, for example by dipping the logs in sea water. China was expecting to hear good news from the project.

163. More generally, China appreciated the encouragement, understanding and patience expressed by its trading partners, and confirmed that it would make efforts to continue its implementation of the commitments in its Protocol of Accession and in the SPS Agreement. China's statement would be made available to Members in writing. China looked forward to further cooperation with Members. If any questions had remained unanswered they could be addressed through the normal channels of the SPS Committee, which provided for efficient cooperation.

164. The Chairperson announced that she would make a short factual report on the transitional review to the Council for Trade in Goods. The Chairperson briefly outlined the content of this report (subsequently circulated as G/SPS/22).

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

165. The representative of OIE referred Members to document G/SPS/GEN/351 which outlined OIE meetings in 2002 and those scheduled for 2003. Expert working group meetings had taken place on brucellosis, avian influenza, BSE and animal welfare. The OIE Working Group on Animal Production Food Safety was scheduled to meet on 18-20 November 2002. Recommendations from these working groups would be circulated to Members for their adoption at the General Session of the OIE in May 2003.

166. The representative of IICA summarized technical assistance activities in the SPS area which were described in detail in document G/SPS/GEN/350. He highlighted the coordination meeting of Enquiry Points for the FAO/WHO Coordinating Committee for Latin America and the Caribbean in November 2002; a Latin American and Caribbean Regional Technical Consultation on phytosanitary measures related to the IPPC in October in Costa Rica; a fourth module of the Executive Series on Food Safety, "Food Safety and Tourism", in September in the Dominican Republic, with the participation of the WTO Secretariat; and food safety courses for the agri-food industry, with emphasis on HACCP, by means of video-conferences linking. He also stated that IICA and the United States Department of Agriculture had facilitated the participation of two experts from the countries of the Americas in the current meeting of the SPS Committee.

167. The representative of the International Plant Protection Convention stated that certain activities had been cancelled in 2002 due to funding problems. Extra-budgetary financing and staff had been made available by Canada, New Zealand, the United Kingdom and the United States, and the Dutch Government had provided funding for the International Phytosanitary Portals system of web-based information exchange. A Working Group on pest risk assessment for Living Modified Organisms had been held on 24-27 September with financial support from the Canadian Government. A memorandum of understanding between the IPPC and the Convention on Biological Diversity (CBD) was being developed which would recognize IPPC's important role and work on alien invasive species. At the Standards Committee meeting which was currently taking place in Rome topics under discussion included amendments to the glossary of phytosanitary terms, irradiation as a phytosanitary treatment, discussion of terms such as potential economic importance and environmental risk analysis. Legal difficulties had arisen with the implementation of ISPM 15: Guidelines for Regulating Wood Packaging Material in International Trade. A key provision of the standard was the use of a mark for the certification of approved treatment measures. However, the FAO faced difficulties in legally

protecting the mark for use according to the standard and the implementation of the standard had been temporarily suspended until these legal issues had been resolved.

168. During 2002, five new countries had joined the IPPC bringing the total number of member countries to 119. The 1997 amended Convention could enter into force only after two-thirds of the Members ratified the amended text. To date, only 45 countries had done so and the representative of the IPPC encouraged the remaining members to ratify the 1997 amendments. He noted that once the new text was ratified, the European Communities could become a member in its own right. The representative of the United States stressed the importance of Members ratifying the 1997 amended IPPC and also highlighted the funding problem in the organization. He stressed that core funding had to be increased if the IPPC was to meet its increased workload, and requested that Members raise the issue with their respective national FAO representatives.

169. The representative of Codex reported that the Ad Hoc Task Force on Animal Feed hoped to complete its work by June 2003. The meeting of the Codex Executive Committee had discussed the terms of reference for the on-going WHO/FAO joint evaluation of the Codex and members had supported the review and its focus on management issues. At an extraordinary session of the Codex Alimentarius Commission, scheduled for February 2003, the joint evaluation document would be formally discussed. The report itself would be completed in December. The scheduling of this extraordinary session had caused some time-table problems as meetings of the regional commissions and CCFICS had been advanced to allow countries to feed their comments into the process. A web-page on the Codex website had been dedicated to the joint evaluation (http://www.codexalimentarius.net/evaluation_en.stm). The results of the joint evaluation would be factored into the Medium Term Plan for 2003-2007. The representative of New Zealand and of the United States emphasized the importance of the Codex evaluation in enhancing the useful work done by Codex.

170. The representative of Codex indicated that equivalence and traceability would to be discussed at a forthcoming meeting of CCFICs. On traceability, the CCFICs was considering how best to address this issue within existing Codex texts. The Codex Committees on Food Hygiene and on Nutrition and Foods for Special Dietary Uses had recently met. At the Food Hygiene meeting issues related to microbiological risk and risk assessment as well as HACCP had been discussed.

X. OBSERVERS - REQUESTS FOR OBSERVER STATUS

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

172. The representatives of Australia, Canada and Norway supported granting observer status to the Convention on Biological Diversity (CBD). The representative of New Zealand, in principle, supported granting observer status to the CBD although her country remained to be convinced of the benefits. She stressed the need for better communication on the part of the CBD on living modified organisms and alien invasive species. The representative of the European Communities supported the granting of observer status to both the OIV and CBD. The representative of Egypt indicated that his country's position remained that questions of observership should be dealt with as a cross-cutting and systemic issue. The Secretariat noted that the CBD would be part of a multilateral environmental agreement information session on 11 November.

XI. ANNUAL REPORT TO THE COUNCIL ON TRADE IN GOODS

173. The Chairperson announced her intention to make a brief, factual annual report on the activities of the SPS Committee in 2002 for consideration by the Council for Trade in Goods. The report would provide information on the number of meetings held in 2002, and on the main work

undertaken at these meetings. She indicated that she would draw attention to the progress made on equivalence, and to the adoption of new transparency procedures. In addition, the report would mention the large number of specific trade concerns discussed, and provide an overview of discussions under other agenda items. The annual report to the Council on Trade in Goods was subsequently circulated as G/L/592.

XII. OTHER BUSINESS

Bolivia - EC measures relating to aflatoxins in Brazil nuts

174. The representative of Bolivia notified the Committee that a mutually agreeable solution to the long-running differences over aflatoxins had been reached by his authorities and those of the European Communities. The representative of the European Communities expressed his satisfaction that it had been possible to reach an agreement on this issue.

Brazil - Update regarding restrictions faced on meat products

175. The representative of Brazil informed the Committee that the South African authorities had authorized imports of meat and pork from Brazilian regions free of FMD. Some difficulties remained regarding administrative procedures for meat products, but Brazil expected these to be resolved soon. In his view, the impending solution to the trade problem was testament to the important benefits brought to international trade in agricultural products by the SPS Agreement.

Chinese Taipei – Information on FMD status

176. The representative of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) reported on the FMD situation in his country. Prior to the outbreak in March 1997, Chinese Taipei had been free of FMD for 68 years. As a result of the FMD outbreak some 3.8 million pigs on 6,000 farms had been slaughtered. Furthermore, detection of a separate FMD virus strain in ruminant livestock in June 1999 had exacerbated the situation. The total cost of stamping out measures was estimated at US$354 million while lost export revenues reached US$1.6 billion. Chinese Taipei had established a strategic plan to recover its FMD-free status that included a vaccination programme and strict disease diagnosis measures. With just six cases reported in 2000 and the last case reported on 25 February 2001, the representative of Chinese Taipei expressed confidence that his country was well on its way to regaining FMD disease-free status.

Cuba – Consultations with the European Communities on honey

177. The representative of Cuba reported that progress had been made in bilateral consultations with the European Communities on regulation EC 96/93 setting out residue limits for imported honey. She stated that she would update the Committee on any further progress at its next meeting.

Israel – EC regulation on cut flowers

178. The representative of Israel raised once more his country's concerns with EC Regulation 2002/36/EEC. While he appreciated that the European Communities had modified and delayed the entry into force of the proposed revision until April 2003, Israel was of the view that until the European Communities had finalized its pest risk assessment the new regulation should be a temporary, not a permanent, measure. Furthermore, he expressed concern that the European Communities was not taking measures to control pests already established in the EC member States from spreading to new areas, and requested consultations with the European Communities and other interested Members. The representative of Kenya also expressed his hope that a solution would be found to the problem. The representative of the European Communities replied that the question was

complex and went beyond a simple matter of the use of the precautionary principle. The ambitious pest eradication measures of the European Communities should not be undermined by imports. He agreed to enter into bilateral consultations with the representatives of Israel and Kenya.

Mexico – US restrictions on melon

179. The representative of Mexico indicated that on 28 October 2002, the US Food and Drug Administration (FDA) imposed an emergency import ban on cantaloupe melons imported from Mexico. He considered this measure as being disproportionate and not based on scientific evidence of any health risk. Mexico requested the United States to suspend the import ban on cantaloupe melons and to comply with its obligations under the SPS Agreement. Details of Mexico's concerns are contained in G/SPS/GEN/366.

180. The representative of the United States noted that FDA sampling of imported produce found that samples of cantaloupe melons from most growing regions in Mexico tested positive for salmonella. The samples had been collected both in the fall/winter and spring/summer seasons, and it appeared that unsanitary conditions in the growing and packing of cantaloupe melons had resulted in four salmonella outbreaks. The import alert recommended officials to detain cantaloupe melons from Mexico at all US ports without physical examination. The October import alert expanded prior import alerts that had targeted specific imports and growers whose products had been linked to outbreaks or had tested positive for salmonella. On 28 October 2002, the United States had also announced that they would continue to work with Mexico on a food safety programme for production, packing and shipping of fresh cantaloupe melons. The Mexican Government had proposed a certification programme based on good agricultural practices and good manufacturing practices that would allow the FDA to identify firms that had adopted and implemented such a programme. This certification programme was still under development and that the United States looked forward to its early implementation.

Argentina – Cuban measures on pork products

181. The representative of Argentina reported that a few technicalities needed to be sorted out before the issue, raised at the previous meeting of the Committee, was completely resolved.

Indonesia – EC restrictions on shellfish

182. The representative of Indonesia recalled that this issue had previously been raised before the Committee. An EC inspection team had visited Indonesia in October 2002, and he noted that the resolution of the problem would have a very positive effect on the fish industry in Indonesia, especially at the production level.

183. The representative of the European Communities noted that shellfish were considered as falling under the category of fish products posing the highest health risks for consumers, and there were very strict production requirements, especially for maritime zones where they were farmed. The European Communities commended Indonesia for all the efforts that the country had made to meet the safety requirements set out in EC legislation, and hoped that further progress would permit resolution of the problem.

Indonesia – Japan's restrictions on sugar cane tops

184. The representative of Indonesia noted that this issue had also been raised previously. Japanese animal health inspection team had carried out an FMD risk assessment in Indonesia in June 2002. Indonesia recalled that the OIE had recognized the country as FMD free without vaccination and requested Japan to take this into consideration.

185. The representative of Japan stated that the issue could not be resolved until the risk assessment was completed. Further data had been sought from Indonesia in order to finalize the risk assessment.

Thailand – Australia's restrictions on durian

186. The representative of Thailand stated that his country had been seeking access to Australia's market for durian since 1991. He recalled that the issue had been raised on three occasions since November 2000. Australia's import procedures required the cutting of the products in an excessive sampling size that was not justifiable. The matter had been pursued on a bilateral basis, but to date no agreement had been reached. At the last meeting, Australia had mentioned that it was considering an alternative method of rapid scan for inspection of import durian. Thailand was of the view that Australia should have concluded its consideration of this method by now. He urged Australia to lift this unduly trade restrictive measure as soon as possible.

187. The representative of the Philippines, speaking on behalf of ASEAN, expressed systemic concerns and noted their interest in monitoring developments in this matter.

188. The representative of Australia recalled that the import conditions of fresh durian from Thailand were subject to review after the first year of trade. She clarified that other less destructive methods of inspection could be substituted for fruit cutting, if efficacy data showed that it could provide an equivalent level of quarantine protection from the key pests of concern. Australia was willing to continue to work with the Thai authorities to make progress on the assessment of non destructive inspection methods.

Thailand – Australia's restrictions on Infectious Bursal Disease (IBD) in chicken products

189. The representative of Thailand indicated that they had provided the risk analysis report on IBD virus in chicken meat to Australia, as well as to the OIE. This quantitative risk assessment evaluated the risk of introducing IBD virus into Australia's backyard flocks through the importation of cooked chicken meat products from Thailand. The report concluded that the risk of introducing IBD virus into backyard poultry in Australia was minimal. The representative of Thailand noted that his country was still waiting for a response from Australia. He requested information from the OIE on the progress made regarding this issue.

190. The representative of Australia noted that at its recent meeting the Australian risk analysis panel had examined the Thai document in detail. The panel had prepared technical comments and questions about aspects of the Thai risk assessment which would shortly be sent to the relevant Thai authorities.

191. The representative of the OIE took note of the risk analysis document, and indicated that as soon as the OIE received more information and data from Members it would be in a position to review the OIE chapter through its expert working group.

Thailand – Australia's restrictions on prawns

192. The representative of Thailand recalled that his country had previously raised this issue in the Committee on behalf of ASEAN. At the last meeting, Australia had stated that new measures were being considered for imports of highly processed prawns. Thailand expressed concerns over the continuation of the interim measure imposed by Australia and urged Australia to complete the risk analysis and abolish the measure as soon as possible. The representative of the Philippines, speaking on behalf of ASEAN, supported the concerns expressed by Thailand and noted their interest in monitoring the issue.

193. The representative of Australia reiterated that in June 2002 Australia had implemented new measures for certain prawn products to provide a less trade restrictive way to address certain prawn diseases. The work of the Australian IRA on prawns and prawn products was underway, and the next step would be the release of a revised draft import risk analysis report. In the meantime, the interim measures from June 2002, including the amended conditions, would continue. The interim measure was science based, temporary and applied only to a small proportion of prawn exports to Australia from Thailand and other countries. Experts from the aquatic animal biosecurity team had recently visited Thailand to work out a cooperative technical assistance programme exploiting the feasibility of alternate measures, including area disease freedom, which might enhance prospects for trade in the prawn products of concern. The representative of Thailand requested a written copy of the response provided by Australia.

European Communities – Panama's restrictions on food products

194. The representative of the European Communities stated that Panama had instituted a range of severe measures on imports of animal products. Although the law was intended to address risks related to FMD, BSE, Newcastle disease and other exotic diseases, the European Communities considered the law to be disproportionate and not science-based. In addition, the measure had not been notified.

195. The representative of Panama indicated that he would refer the EC concerns to the competent authorities and hoped to be able to provide a prompt response.

XIII. DATE AND AGENDA OF NEXT MEETING

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

1. Proposed agenda
2. Implementation of the Agreement
   - (a) Information from Members
     Activities of Members
   - (b) Specific trade concerns
     - (i) New issues
     - (ii) Issues previously raised
   - (c) Consideration of specific notifications received
   - (d) Any other matters related to the operation of transparency provisions
3. SPS Agreement and developing countries
   - (a) Implementation of the provisions for special and differential treatment
   - (b) Proposals from India and Canada
4. Equivalence – Article 4
   - (a) Information from Members on their experiences
   - (b) Information from relevant observer organizations
   - (c) Consideration of specific provisions of the Decision (paragraphs 5 and 7)
5. Disease – free areas – Article 6
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. Election of Chairperson
11. Other business
12. Date and agenda of next meeting

197. Following conclusion of the meeting, the date of the next SPS Committee meeting was changed to 2-3 April 2003. The following deadlines are relevant:

- for identifying new issues for consideration under the monitoring procedure: **3 March 2003**
- for requesting that items be put on the agenda: **20 March 2003**
- for the distribution of the airgram: **21 March 2003**

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