WORLD TRADE ORGANIZATION

RESTRICTED

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(03-3224)

Committee on Sanitary and Phytosanitary

SUMMARY OF THE MEETING HELD ON 2-3 APRIL 2003

Note by the Secretariat[1]

I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its twenty-sixth meeting on 2-3 April 2003. The Chairman of the Committee, Mrs. Maria Fe Alberto-Chau Huu (Philippines), opened the meeting. The agenda proposed in WTO/AIR/2059 was adopted with amendments.

II. IMPLEMENTATION OF THE AGREEMENT

(a) Information from Members

(i) Activities of Members

Information from Bolivia on the National Service for Agricultural Health and Food Safety (SENASAG)

2. The representative of Bolivia informed the Committee that Government Decree 2081, of March 2002, had created SENASAG as a decentralized public agency with responsibility for establishing standards and regulations in the areas of animal and plant health and food safety. IICA recommendations on institutional modernization advocated consolidated control in a single agency for animal and plant health and food safety throughout the entire food chain. SENASAG was the official agency responsible for certification of imports and exports.

Information on Bolivia's OIE request for FMD freedom for the Chiquitania zone

3. The representative of Bolivia stated that one of the first achievements of Bolivia's national FMD eradication programme, jointly designed by government and private industry, had been the eradication, with vaccination, of FMD from the Chiquitania region in the department of Santa Cruz. In addition to strategically-located control posts, the region had natural barriers which controlled access to Chiquitania. In February 2003, Bolivia applied to the OIE for recognition of FMD free status for this region and the representative of Bolivia requested the co-operation of Members in this regard.

Update on the FMD disease situation in Argentina

4. The representative of Argentina recalled that Argentina's FMD control and eradication efforts had begun in 2001 with a national plan to immunize the national cattle herd (G/SPS/GEN/377). The last case of FMD was recorded in February 2002. Serological samples of cattle and other species

[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.

taken in 2002 showed an important reduction in FMD incidence overtime, a very good level of immunity among target populations and an absence of viral activity in FMD areas of the country. The FMD situation in Argentina was under control and stable, and Argentina was in strict compliance with the OIE Code in this regard, in particular chapters 2.1.1.24 concerning bovine meat.

Statement by Canada on BSE risk assessment in Canadian cattle

5. The representative of Canada informed the Committee that the Canadian Food Inspection Agency had carried out a risk assessment of BSE in cattle in Canada. Patterned on the OIE Animal Health Code, the risk assessment was presented in three sections: an evaluation of risk factors for BSE in Canada, BSE surveillance in Canada and a quantitative analysis of the risk estimation for Canada. The assessment had concluded that the likelihood of establishment of BSE in cattle in Canada prior to the Canadian 1997 feed ban through primary modes of transmission was negligible. The introduction of additional preventative measures, such as the feed ban in 1997 and a revision of the BSE import policies in 2000, had further diminished the risk of BSE being introduced, propagated or amplified. Canada's policies to prevent BSE entry would continue to evolve in line with the scientific evidence and international standards. The report would soon be available on-line at www.inspection.gc.ca.

Update on Avian Influenza situation in the European Communities

6. The representative of the European Communities reported on the avian influenza outbreaks in the Netherlands (G/SPS/GEN/390). By 31 March, 146 poultry farms had had confirmed outbreaks and there were serious suspicions that an outbreak had occurred on another 36 holdings. These farms were all in one area of the Netherlands and earlier suspicions of outbreaks in other regions of the Netherlands, and in Belgium close to the Dutch border, proved to be incorrect.

7. Since the start of the epidemic, the Dutch authorities immediately put in place stringent protective measures, which had been legally re-inforced by the European Communities on the basis of Directive 92/40/EEC. These measures included a nation-wide standstill for the transport of live poultry or hatching eggs from the whole territory of the Netherlands to other EC member States and third countries, and the culling of poultry from infected and suspected farms, as well from farms situated in a 1-km zone around these farms. Two buffer zones had been established in vulnerable areas north and south of the infected area in which all poultry and hobby birds had been preventatively culled. No fresh poultry meat from the two buffer zones or the infected regions could be dispatched to other EC member States or third countries. These measures would be reviewed at the 8-9 April 2003 meeting of the Standing Committee on the Food Chain and Animal Health.

8. The representative of the European Communities stressed that avian influenza was present in only one region of one EC member State, representing a very small part of the European Communities. Moreover, all necessary steps had been taken by the Dutch authorities to control the spread of the disease and to keep WTO Members informed of the progress of the disease and control measures taken. Nevertheless, some trading partners had taken measures against non-affected EC member States and also banned the import of poultry meat, table eggs and other poultry products. The representative of the European Communities urged Members to apply measures which were consistent with the SPS Agreement, specifically Articles 2 and 6 thereof, and which were limited to the items relevant for disease transmission (live poultry and hatching eggs).

Update on US bio-terrorism regulations

9. The representative of the United States recalled that at the November 2002 SPS Committee meeting, it had informed Members of activities pertaining to the Public Health Security and Bioterrorim Preparedness Act ("The Bioterrorism Act"). The US Food and Drug Administration (FDA) was responsible for developing regulations to implement these provisions. The legislation

contained several provisions that would affect commercial entities that manufactured, processed, packed or held food intended for export to the United States. The four principal provisions of the Bioterrorism Act were: (1) registration of most food manufacturing and handling facilities; (2) prior notice to FDA of all food consignments intended for import into the United States; (3) establishment and maintenance of certain records pertaining to the receipt and distribution of foods; and (4) administrative detention of any food when there was credible evidence or information that it presented a threat of adverse health consequences to humans and animals.

10. On 3 February 2003, FDA had published proposed regulations intended to implement the registration and prior notice provisions of the law. These proposals were notified to the WTO on 6 February with a 60-day comment period that ended on 4 April 2003. The comments submitted to FDA would be considered when developing the final regulations that were expected to be published no later than October 2003. Two additional proposed regulations dealing with the record keeping and administrative detention provisions of the Bioterrorism Act were expected to be published soon and notified to the WTO. Members were encouraged to study the proposals and to submit comments to FDA to assist with the development of the final regulations. To this end, the US delegation had prepared an information packet which it distributed to the Committee.

11. Speaking on behalf of Malaysia, Thailand and Indonesia, the representative of Indonesia recognized that the measures being taken by the United States were in response to the tragedy of 11 September 2001. Although Members could take measures to counter threats to human, animal or plant life or health according to their own appropriate level of protection, the measures should be applied in the least trade restrictive manner to fulfill the legitimate objective. In this regard, there were concerns that the Bioterrorism Act could have a negative impact on trade liberalization efforts, on trading partners and on market access. He hoped that the Act would be implemented in a transparent, straightforward, inexpensive way and in the least trade restrictive manner possible. Registration should be automatic and no facility should be *a priori* excluded. In addition, sufficient time needed to be provided for registration, particularly for small and medium-sized enterprises in developing countries, and the operation of these provisions reviewed at least during the first six months after the proposed regulation was adopted. Malaysia, Thailand and Indonesia would provide detailed comments directly to the FDA. The representative of the Philippines expressed support for the concerns raised by Malaysia, Thailand and Indonesia.

12. The representative of Switzerland stated that her country would also be providing comments to the FDA. She noted that Switzerland had serious concerns that the proposed legislation would unnecessarily impede international food trade. Although instruments such as registration and documentation could facilitate product withdrawal and investigation of food safety events, it was important that these instruments be applied in a non-discriminatory manner. Information obtained through the Bioterrorism Act should not also be used for other purposes, nor be disclosed to the public. Of particular concern to Switzerland were the provisions related to "prior to shipment notice" (section 307), which duplicated other measures, such as the US Container Security Initiative, and which did not seem to enhance public safety from threats arising from bioterrorism. Furthermore, the measures involved additional costs and an immense administrative burden for food facilities exporting to the United States. In this context, Switzerland also noted that the requirements applied only to foreign food shipments.

13. The representative of Egypt requested further information on the logic behind the discriminatory nature of the proposed measures, since they exempted national food producers.

14. The representative of China noted that his country had concerns with how FDA would distinguish regular food safety issues from bioterrorism. The requirement to submit a registration form to FDA which specified the US importing agent would restrict the rights of exporters to select the trading partner of their choice, and was unnecessary as the information could be submitted

through the prior notice procedure. China noted that it would be submitting comments to the FDA by the 4 April deadline.

15. The representative of Singapore shared the concerns expressed by other Members over the potentially wide scope of legislation and the high compliance costs for small and medium sized exporters and re-exporters. She noted that re-exporters did not appear on the exemption list and highlighted that these operators would have particular difficulty in meeting the registration, documentation and record-keeping obligations as they sourced food from the open market and did not have control over manufacturing activities. Singapore shared Switzerland's concerns that the information obtained should be used strictly for the purposes of the Act. The representative of Singapore urged the United States to consider the high compliance costs and requested that procedures be as simple, least burdensome and least trade restrictive as possible.

16. The representatives of Australia, Chile, Japan, Mexico and New Zealand also noted that they would be submitting comments to the United States on the Bioterrorism Act. The representative of Australia shared the concerns of others over the trade restrictiveness of the proposed measures and their duplication of existing systems. The representative of Chile highlighted a number of concerns, notably as to why information kept by companies had to be collected for a 12-year period and how a distinction would be drawn between inadvertent and deliberate acts of food contamination. The representative of Mexico stressed his support for the comments made by other delegations.

17. The representative of the European Communities noted that while he fully understood why the Bioterorism Act had been put in place, the European Communities generally agreed with the comments made by other Members and had doubts about the actual method used to achieve these objectives. He shared the concerns of other delegations over the impact on small and medium sized enterprises and that the measures were applied in a discriminatory manner only to imports and not to national food producers. The Bioterrorism Act had been introduced without any prior notice or notification to the Committee and it was apparently not based on a risk assessment. The European Communities had made comments in August 2002, but had not received any response to these comments as yet, other than an assurance that the comments would be taken into account.

18. The representative of Canada noted that his country shared the objective of the regulations and appreciated the extensive outreach efforts of FDA with respect to the Bioterrorism Act. Canada would submit written comments and requested flexibility to ensure the least trade restrictive approach was taken, such as by differentiating between different modes of transport (e.g. just-in-time inventory movements).

19. The representative of Bolivia expressed the hope that the measures would not pose unnecessary obstacles to trade or lead to discrimination.

20. The representative of the United States requested that Members send their comments in writing to the FDA. All comments would be reviewed, evaluated and responded to in the final rule. The United States was working to ensure that its SPS obligations were met and that there was no discrimination between domestic and foreign food facilities. The registration requirement applied equally to all facilities in the United States, although there was no prior notice requirement as the food from domestic facilities was already within its territory. Focus was also being given to ensuring that the final rule was not more trade restrictive than necessary. A risk assessment would be conducted by the time of entry into force of these measures.

21. In response to Indonesia's concern, the representative of the United States stated that no food facilities would be excluded *a priori* from registration. He encouraged Indonesia to submit the idea of a periodic review to the FDA as part of its comments. Information collected by the registration and prior notice requirements would be used by the FDA to allocate its resources to inspect food shipments coming into the United States and compared with other security information collected by

government agencies on potential threats. In reply to the European Communities, he stated that earlier comments had been solicited as part of an information sharing exercise and needed to be resubmitted during this official comment period. He underlined the importance of trading partners making comments by the 4 April 2003 deadline since the Administrative Procedures Act precluded government agencies from considering comments made after the specified comment period.

Statement by Chile on Avian Influenza

22. The Director of the Chile's Veterinary Services provided an update on the avian influenza situation (G/SPS/GEN/383). He informed the Committee that Chile had been declared free of avian influenza in accordance with the OIE code on 19 December 2002. Chile had brought the disease under control in record time and was grateful for the assistance provided by the OIE and Italian government in this regard. Chile hoped that those countries which still maintained restrictions would soon recognize Chile as free from avian influenza.

Information on citrus diseases in Peru

23. The representative of Peru stated that since 1997 it had begun inspections of citrus orchards for three diseases, citrus black spot, sweet orange scab and citrus canker (G/SPS/GEN/386). The work plan included sampling and diagnosis in all citrus areas of Peru. After seven years of work, the absence of these three diseases from Peru was confirmed in March 2003, when the Andean Community recognized Peru as free of these quarantine diseases through Resolution 703.

(b) Specific Trade Concerns

(i) New Issues

Australian import requirements for Netherlands Truss Tomatoes – Concerns of the European Communities

24. The representative of the European Communities noted that while the European Communities accepted that Australia had a high health status and recognized the right of Australia to set its own level of protection, the resulting applied rules had the effect of blocking trade for years on end without any scientific justification. Therefore, the European Communities would be seeking consultations under the Dispute Settlement Understanding in respect of the import risk assessment policy applied by Australia to determine whether this was in accordance with WTO rules and the SPS Agreement (G/SPS/GEN/384).

25. The European Communities considered truss tomatoes as an example of where unnecessary delays took place. In March 1997, Australia commenced a risk assessment for truss tomatoes following a request from an Australian import company. Some six years later, no import risk assessment had been completed and imports were still prohibited. The Australian authorities had failed to respect the deadlines for progress on this issue, including a pledge to issue a technical issues paper in September 2002. Since 1997, the Dutch authorities had provided information to Biosecurity Australia on 21 occasions and hosted a senior officer from that agency in 1999. Also in 1999, an Australian delegation had visited the Netherlands and presented a draft risk assessment on tomatoes without green parts. However, Australia indicated that the risk assessment would need to be reconsidered if the Netherlands wished to export tomatoes on the truss, despite the fact that, it had been made explicit in 1998 that the exported commodity would be a piece of vine with 6-10 tomatoes and stalks intact. In each succeeding year, the risk analysis had been postponed for reasons other than technical issues. For example, in September 2000 a delay was encountered due to a "shift in resources" and in November 2001 the issues paper could not be released due to an election in Australia. Furthermore, in 1999 the Australian authorities stated that it was necessary to undertake an economic impact assessment of Dutch imports on the Australian tomato industry. However in the

intervening period, truss tomatoes had been approved from New Zealand – after New Zealand had approved Australian imports of the same product. Unexpectedly, on 26 March 2003, Biosecurity Australia indicated that there was no longer a need for a risk assessment on truss tomatoes. However, import conditions were still pending as a draft review of the quarantine requirements for the import of Dutch tomatoes needed to be circulated to stakeholders for comment. The European Communities considered that the time period necessary for Australia to conduct its import risk analysis was disproportionate to the risk and apparently discriminated unjustifiably between WTO Members. The European Communities looked forward to notification of the import conditions for Dutch truss tomatoes and suggested that the conditions governing imports of the said product from New Zealand would be a good starting point.

26. Speaking on behalf of both Thailand and the Philippines, the representative of the Philippines indicated his country's interest in the EC decision to seek consultations with respect to Australia's quarantine system.

27. The representative of Australia reported that a detailed communication had been provided to the Netherlands and the European Commission in the week preceding the Committee meeting. On 26 March, Biosecurity Australia announced that imports of truss tomatoes would be assessed as an extension of the technical policy recently developed for truss tomatoes from New Zealand. A review of policy, rather than a full risk assessment, would shorten the time required. Much of the work had already been completed and the draft review would include draft import conditions and would be released to stakeholders with a 30-day comment period. The finalized review document should be available before the end of May 2003. Differences existed between the health status of Netherlands tomatoes and New Zealand tomatoes which needed to be considered in the draft review. The representative of Australia stated that her country had a world class quarantine system which was science based and transparent.

Mexican restrictions on the importation of dry beans – Concern of the United States

28. The representative of the United States indicated that Mexico had temporarily suspended the importation of dried beans from the United States on 21 January 2003 (G/SPS/GEN/379). Mexico continued to suspend imports under its plant health regulations and laws, with no evidence of a plant health risk. The import ban had been notified to WTO Members. The United States requested that Mexico immediately revoke the import ban.

29. The representatives of Canada and Nicaragua stated that they shared the concerns of the United States. Canada noted that no provision had been made in the Mexican measure for shipments en route. Nicaragua indicated that access for its black beans to the Mexican market had been blocked for what it considered arbitrary reasons. Of particular concern to the Nicaraguan representative was the administration set in place by Mexican rule 007 phyto 95, Standard NOM-028-FYTO-1995, notified as G/SPS/N/MEX/68. Over 9,000 hectares of black beans were grown in Nicaragua for export to the Mexican market.

30. The representative of Mexico replied that high level discussions had taken place between the Mexican authorities and the United States and Canada. Mexico would communicate in the next few days what steps it would take to resolve this phytosanitary risk. In response to the comments raised by Nicaragua, the Mexican representative reserved the right to reply at a later date.

Japan's fumigation standards – Concerns of the United States

31. The representative of the United States reported that a newly adopted measure by Japan's Ministry of Agriculture, Fisheries and Food prohibited the re-fumigation of fruit or rice which had previously undergone fumigation in the United States. Japan had not notified this measure to the SPS Committee and requested clarification from Japan as to the objective of the measure, its scope,

implementation, enforcement and projected trade effects. Due to the lack of notification of the measure, the United States requested a delay in its implementation so as to allow sufficient time for WTO Members to comment on the proposal.

32. The representative of Japan stated that he would transmit the US concern to his authorities and respond in due course.

China quarantine measures for the entry and exit of aquatic products – Concerns of the European Communities

33. The representative of the European Communities noted that, after being suspended since its adoption last year, Decree No. 31 was due to enter into force in June 2003. The measure had not been notified to the WTO, so the European Communities had not been able to assess the decree and had a large number of questions with regard to its implementation. He requested the Chinese authorities to notify the measure to the WTO and to suspend its entry into force for four additional months to allow Members a chance to comment on a notification and for permits to be issued to exporters. The European Communities noted additional concerns over labeling, registration provisions and which ports were authorized for imports.

34. The representative of the United States echoed the concerns of the European Communities with regard to the non-notification of China's measure.

35. The representative of China stated that Decree 31 had been developed within the framework of current Chinese laws and regulations. It had been notified to the WTO as part of a notification covering the laws on animal and plant quarantine and on sanitation, inspection and certification of imports and exports of food products. The purpose of the Decree was to standardize the standards of quarantine for aquatic animals and to improve the transparency of procedures in line with WTO obligations on transparency and consistency. The regulation did not contain any new technical requirements and thus did not need to be notified to WTO. Nonetheless, China would consider any comments from Members. In line with the Doha Decision on Implementation Issues, China had decided to delay the date of entry into force from 10 December 2002 until 13 June 2003, so as to minimize any trade impact. On 23 December 2002, AQSIQ sent a notice to all foreign embassies in Beijing and requested them to identify which governmental authorities had responsibility for issuing certificates for export to China, and to submit a model certificate so that China could verify the certificates. The representative of China encouraged the European Communities and the United States to submit comments to AQSIQ so these could be taken into account.

Mexican restrictions on Austrian products – Concerns of the European Communities

36. The representative of the European Communities stated that France, Ireland, the Netherlands and the United Kingdom had officially regained their OIE FMD free status without vaccination after the 2001 outbreak. However, Mexico continued trade restrictions due to FMD, and in particular against Austrian animal products despite the fact that Austria had not had an FMD outbreak since 1981. In July 2001, the Mexican authorities agreed to submit a questionnaire to the Austrian authorities and stated that import permits could be judged on a case-by-case basis. In May 2002, the Austrian authorities answered the questionnaire in detail, but the Mexican authorities had responded with a second questionnaire requesting further details. A number of the questions did not seem relevant to the Austrian situation where FMD had not occurred for 22 years. The representative of the European Communities hoped that Austria would be recognized as FMD free by the Mexican authorities in the near future.

37. The representative of Mexico informed the Committee that Austria failed to meet certain requirements to be recognized as FMD free. He encouraged the Austrian authorities to complete the

questionnaire. On the basis of discussions between the Mexican, Austrian and EC authorities, a work programme would be established to resolve this issue.

EC Directive 2001/661/EC regarding Foot and Mouth Disease – Concerns of South Africa

38. The representative of South Africa stated that national experts had not been able to attend the Committee meeting, however, his country's concerns were explained in G/SPS/GEN/373.

39. The representative of the European Communities explained that Council Directive 72/462 differentiated between the various types of FMD. Regionalization was a current practice applied by the Community where possible. The Directive provided that the import of fresh meat from regions which were FMD free without vaccination but where vaccination against SAT or Asiat 1 viruses was practiced in another region of the country could only be authorized under certain conditions. One of the conditions was that the meat be mature, deboned, with lymph nodes removed and that importation take place only three weeks after slaughter. These conditions applied to South Africa due to the presence of SAT in a part of South Africa even though certain areas were officially FMD-free without legislation. The European Communities recognized that this legislation, dating from 1972, had to be updated now that SAT was no longer considered differently from other virus strains. This was the reason behind the adoption of Council Directive 99/2002, which would enter into force on 1 January 2005. On the basis of information and guarantees supplied by South Africa, the situation could be reassessed. However, the European Communities was concerned that there had been four outbreaks of FMD in Namibia originating from Zimbabwe, where there were hundreds of cases. In these circumstances, it was prudent to authorize only the importation of deboned, mature meat. Once the new Directive was in force, the European Communities would review its measure in light of the FMD situation in South Africa and its neighboring countries.

EC proposal regarding animal by-products – Concerns of the United States

40. The representative of the United States stated that EC regulation 1774/2002 would severely restrict or prohibit a range of animal by-products intended for use in feed, industrial or other non-food purposes. He was concerned with the lack of transparency of this regulation given its excessively broad scope, the lack of sufficient time and information given for exporters to comply and the EC failure to adequately address the concerns of third countries like the United States. The European Communities had not provided for a reasonable time interval between the publication of the regulation and its entry into force. While the regulation was published in October 2001, the United States had still not received the full information necessary to comply even through the implementation date was 1 May 2003. The United States had requested a delay in the implementation of the regulation, but had not received a clear response. In February 2001, the United States submitted significant comments in response to the EC notification of its initial proposals. However, the final EC regulation had not addressed its concerns and had also raised other concerns by significantly expanding the scope and opaqueness of the regulation. The United States was also concerned about reports of derogations for certain EC member States without the same derogations being made for third countries, the lack of scientific justification for the regulation and the lack of a risk assessment for the proposed inter-species feed ban. Certain provisions of the regulation exceeded the OIE's recommendation, did not seem to be based on a risk assessment and went beyond a reasonable level of protection, such as the pressure treatment requirement for all mammalian material regardless of species or a country's BSE status.

41. The representative of Brazil shared the concerns raised by the United States. He noted that some of the by-products affected came from sanitary facilities not inspected by EC authorities as part of Brazil's bilateral agreement on meat exports.

42. The representative of China indicated that the EC market was one of the largest for China's animal by-products – worth some US$440 million in 2002. EC regulation 1771/2002 had been

notified to the WTO while China was still in the process of accession and as such it had not had a chance to comment on the notification. In March 2003, China had finished translation of the regulation, but interested exporters and AQSIQ were still not familiar with the regulation. Therefore, China requested the European Communities to delay the regulation's implementation for two years, to allow China to provide comments by 31 May 2003, and not to reject or destroy any shipment of Chinese animal by-products which did not comply with the regulation's requirements before 1 May 2005.

43. The representative of Australia noted that a useful technical meeting had taken place with the European Communities on 14 March. Article 30 of the regulation allowed for the recognition of equivalence of certain health measures, and Australia might seek recognition of equivalence based on its favorable animal health situation, in particular regard to animal TSEs and the derogation given Australia with respect to the removal of specified risk materials. Without clarifications and equivalence determinations, Australia would have difficulty in complying with this regulation by 1 May and might seek a delay in the full implementation of this regulation.

44. The representative of Canada stated that it did not see how practical implementation of this regulation would be possible by 1 May 2003. In addition to the many requests for clarification from third countries still being received by the European Communities, many EC member States were seeking temporary derogations. A patchwork of exemptions and derogations for specific countries seemed to be emerging. A single set of clear rules for all was needed. An additional requirement for third countries was the need for certification from competent authorities for implicated products, which required a complete understanding of the regulation. Canada was of the view that a delay in the implementation of the regulation was warranted and required.

45. The representative of the European Communities recalled that a number of food crises had occurred in the European Union in the past ten years and as such protection measures needed to be strengthened to avoid new crises. In this context, the draft regulations aimed to ban the recycling of dead animals, to offer alternatives to denaturation, to take account of environmental requirements, to control traceability of sub-products and to simplify the patchwork of existing legislation. In response to comments received, the European Communities had organized information meetings on 13 November 2002 and 28 March 2003, and had produced an explanatory document. Third countries had had sufficient time to comment on the 24 November 2002 notification. The measures were based on solid science, even though no formal risk assessment had been conducted for each chapter of the text, and the European Communities was willing to make all relevant information available to trading partners. The economic impact of the measure was up to each country to judge. Certain EC member States and third countries had expressed concern over the date of entry into force of the regulation. As a result, the EC Commission was studying transitional arrangements which would enable temporary flexibility on certain provisions. Any temporary flexibility or new measures on certification of third country products would be decided on and notified to WTO Members with a new deadline for comment.

(ii) Issues Previously Raised

46. The Chairperson noted that the Secretariat had updated document G/SPS/GEN/204/Rev.3 which listed all specific trade concerns that had been raised in the Committee. The Secretariat stated the document was unrestricted and now included a summary section showing the annual number of specific trade concerns raised in the Committee, tables and graphs on developing country concerns, the breakdown between food safety, animal and plant health, issues etc. The Secretariat encouraged Members to report back to the Committee when solutions had been found to trade concerns. At the present time, in only 28 cases out of a total of 154 had Members reported that they had fully resolved an issue; an additional 14 partial solutions had also been reported. Furthermore, the document had been re-structured and specific trade concerns were now listed by Member. First, issues raised about

measures maintained by that Member were included, and then the issues raised by that Member about other Member's measures were identified.

47. The representative of Chile suggested that countries send in written comment about how their concerns had been resolved so that at the subsequent meeting comments would only be made on pending issues.

Australia's restrictions on the import of fresh durian – Concerns of Thailand

48. The representative of Thailand stated that since his country had first raised concerns over Australia's import restrictions on fresh durian fruits in 2000, along with issues related to prawn products and chicken meat, there had been little progress. Neither fresh durian nor chicken meat could be exported to Australia. Furthermore, the interim measures taken on prawn products had remained in place since December 2000. Bilateral consultations had taken place , but as yet so substantial progress could be reported. Thailand requested that Australia, in accordance with its SPS obligations, reply in a favorable manner to Thailand's concerns. Thailand was unable to accept the Australian import risk analysis of 1999 on fresh durian, since the measures it proposed were too expensive and stringent to be commercially viable. These conditions allowed the import of fresh durian only with destructive sampling techniques and seasonal limitations. Thailand urged Australia to adopt a more practical and commercially feasible measure for inspection.

49. Speaking on behalf of ASEAN, the representative of the Philippines noted systemic concerns related to this issue and ASEAN's interest in following any progress.

50. The representative of Australia stated that a number of substantive technical meetings had taken place on quarantine matters between Australia and Thailand since the last meeting of the Committee. A joint Ministerial declaration between Thai and Australian trade ministers had been issued on 21 November 2002, which called for enhanced consultation on SPS issues. On durian, the import protocol permitted imports between April and September. Australia would consider imports from all growing areas subject to the conditions set out in the import risk analysis. The issue of durian was discussed at a meeting of the joint Thai-Australian working group on agriculture, held on 3-7 March 2003, in Changmai. Although Australia had legitimate quarantine concerns with respect to durian seed borer, several alternative risk mitigation options had been discussed at Changmai including pest free areas of production, pest free production sites and reproscan inspection methods (in lieu of fruit cutting). The Thai authorities were considering the pest free alternatives and had agreed to a joint collaborative trial of the reproscan inspection methods this fruiting season in late April and June. A longer term solution might be irradiation and Australia understood that Thailand could be interested in conducting trials as no efficacy data was currently available. The representative of Australia stated that her authorities understood the Thailand's concerns and were keen to work towards a mutually agreeable solution.

EC levels of aflatoxins in Brazil nuts – Concerns of Bolivia

51. The representative of Bolivia stated that a proposal had been submitted to the European Communities to strengthen the Bolivian system of certification for the export of Brazil nuts. He hoped that a technical exchange would take place on this proposal in the near future. He requested that paragraph 174 of G/SPS/R/28 be amended, as a mutually agreeable solution had not occurred but rather information had been exchanged and consultations had taken place.

52. The representative of the European Communities noted that his authorities would need some time to examine the Bolivian proposal. He recalled that at previous meetings he had quoted import statistics which showed that flows of Brazil nuts into the European Communities had grown from 4,400 tons in 2000, to 5,900 tons in 2001 and to more than 6,000 tons in 2002 without any detection of aflatoxin above permissible levels. Hence the problem was one of costly and cumbersome

sampling at the point of entry in the European Communities. The European Communities favored certification at the point of departure by accredited laboratories and commended the Bolivian authorities for their proposal.

Venezuela's restrictions on the importation of potatoes, garlic and onions – Concerns of Argentina

53. The representative of Argentina informed the Committee that Venezuelan technical experts had visited Argentina to verify Argentina's claims of freedom from onion smut (*Urocystis cepulae*). Discussions had entered the final phase and the Argentine authorities awaited the publication of the Venezuelan expert report which should allow the resolution of this question.

54. The representative of Venezuela reported that bilateral consultations with Argentina had taken place prior to the Committee meeting and that the expert report should be available soon.

Japan's official control restrictions – Concerns of New Zealand

55. The representative of New Zealand noted her authorities' disappointment at having to raise again the issue of Japan's policy of fumigation of non-quarantine pests. This policy was not consistent with the relevant international definition in ISPM-5 of the IPPC and Supplement No.1. Japan's plant protection restrictions were a significant issue for a number of Members. Bilateral discussions between New Zealand and Japan had continued since 1983. New Zealand had requested a policy statement from Japan by 1 January 2003, to confirm that Japan would not take any action (e.g. fumigation) on any pest intercepted at the border on imported produce if that pest was already present and not under official control as defined by the IPPC. To date, no such statement had been forthcoming. Although the IPPC definition and guidelines were adopted in April 2001, Japan had still not brought its phytosanitary measures into line with these guidelines, nor provided any evidence that it had a proactive programme to do so. The representative of New Zealand indicated that further bilateral consultations would take place during the ICPM meeting the following week, however, she requested a reply from Japan as to when and how it intended to rectify this situation.

56. The representative of the United States stated that it shared many of the same concerns and frustrations as New Zealand. The United States continued to experience trade disruptions due to Japan's phytosanitary legislation and unjustified quarantine actions. One example was the methyl bromide fumigation of a significant percentage of US citrus fruit due to detections of Fuller Rose (*Curculionidae*) beetle even though the beetle occurred in several Japanese prefectures and no domestic quarantine actions were being taken to control it. One third of US lettuce exports were subjected to fumigation on arrival in 2001 and 2002. The policy of requiring quarantine treatment for pests which were commonly found domestically did not reflect the actual risks from the pest in question for the importing country. Besides lacking a scientific basis, Japan's policy was inconsistent with IPPC standards and highly disruptive of trade. The result was an arbitrary and unpredictable system facing US horticultural exports into Japan. US experts had requested information on which pests were considered quarantine risks, but without reply. The representative of the United States requested that Japan give the issue prompt attention. The representatives of Australia and the European Communities shared the concerns of the New Zealand and the United States.

57. The representative of Japan replied that his authorities did not consider they had any obligation to make a policy statement regarding non-quarantine pests. Nevertheless, for the sake of transparency, Japan was ready to make a statement. Japan respected international rules, including the IPPC guidelines, and took appropriate measures where necessary on the basis of its national plant protection laws. Japan was fully aware of other Members' concerns that it was not consistent with international standards to apply fumigation measures on pests which were not subject to official control. Japan was of the view that further examination was necessary to see if Japan's current measures were consistent with international standards. In order to conduct this examination in a thorough and transparent manner, Japan intended to invite representatives from outside government to

review the situation, considering the present situation of agricultural imports and pest restrictions. Furthermore, Japan was also ready to discuss what should be the most appropriate system of plant protection taking into account the need to maintain Japan's appropriate level of protection.

Australia's restrictions on prawn imports – Concerns of Thailand

58. The representative of Thailand recalled that interim measures against the import of uncooked prawn and prawn products from ASEAN countries had been in place for over two years. Thailand believed that there was no legitimate reason for the continuation of these emergency measures.

59. The representative of Australia replied that the interim measures would remain in place until the completion of the import risk analysis or until other scientific information which countered existing information became available. She stressed that the measures were science-based, applied to all countries and only to high risk products – uncooked prawns – that accounted for only 5% of the prawn products exported to Australia from Thailand. Tests had indicated the positive presence of white spot virus in Thai uncooked prawn products shipped to Australia. As the disease was exotic to Australia, it was entirely appropriate that Australia manage the risk of its introduction. Biosecurity Australia had commissioned a study on bait use (to be published soon) which provided clear support for the measures taken. The import risk analysis was complex and covered a number of end uses. Although it had taken longer than originally envisaged, Australia was committed to finalizing the IRA as soon as possible. Australia was also working on technical assistance projects for alternative biosecurity measures for prawns, including aquatic disease zoning methodologies.

Australia's restrictions on infectious bursal disease (IBD) in chicken products – Concerns of Thailand

60. The representative of Thailand recalled that this issue had been raised several times since September 1998. Australia's unconventional and impractical import requirements for heat treatment of chicken meat to inactivate the IBD virus made exports commercially unviable. Australia's import risk analysis process was very complicated, unduly long and conducted without a specific timeframe. Thailand strongly urged Australia to hasten the risk analysis process which could otherwise be regarded as a trade barrier.

61. The representative of the European Communities stated it shared Thailand's concerns on heat treatment for IBD.

62. The representative of Australia recalled that the current arrangements were established in August 1998 following a science–based risk assessment. The key quarantine concern was IBD virus. Tests conducted at an independent laboratory in Weybridge, UK established the time and temperature cooking parameters for the inactivation of this virus which formed part of the current import protocol. That science had not been formally challenged. Biosecurity Australia was studying Thailand's risk analysis on cooked chicken meat, received in May 2002, along with additional information provided in January 2003. Australia aimed to complete the current risk analysis on chicken meat as soon as possible.

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

63. The representative of Costa Rica noted that bilateral consultations were progressing between the Costa Rican and Honduran health authorities and that he would keep the Committee informed of progress in this regard (G/SPS/GEN/347/Add.1).

64. The representative of Honduras reported that after the November 2002 meeting of the SPS Committee, an agreement was reached on progress towards re-establishing trade of poultry meat and allied products from Costa Rica.

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

65. The representative of Argentina recalled that the health authorities of Trinidad and Tobago did not allow any importation of pork sausages and other fresh, cured or salted pork products. Argentina requested that Trinidad and Tobago apply the standards provided for in the OIE Animal Health Code. Despite the willingness of Trinidad and Tobago to engage in bilateral consultations on this issue, no progress had yet been achieved at the technical level. A bilateral meeting had taken place just prior to the SPS Committee and it was hoped that this would provide the basis for a resolution of this issue.

66. The representative of Trinidad and Tobago recalled that as a member of CARICOM, it adhered to a regional policy for the importation of all meat products. The re-opening of the market to a country affected by FMD was contingent on that country achieving FMD freedom without vaccination. The OIE Code stated that animals from which the aforementioned products were derived should not have been vaccinated. Re-opening of markets was based on consensus among CARICOM members. Accordingly, Argentina had been advised that the matter should be pursued through the CARICOM Secretariat, and Argentina had done this. CARICOM was committed to finding a mutually agreeable solution and had convened a meeting of the region's chief veterinary officers to discuss the matter on 7-8 April 2003. It was expected that the matter would be fully resolved at that time. With reference to G/SPS/R/28, Trinidad and Tobago clarified that it had provided only one response to the statement made by Argentina.

Australian import restrictions on pigmeat from Denmark – Concerns of the European Communities

67. The representative of the European Communities reported that Denmark had first requested access for pigmeat into Australia in 1980. Another 17 years passed before some access for processed meat was provided. Biosecurity Australia began a general import risk analysis for pigmeat in May 1998. Although due to be released in February 2000, the risk assessment had not yet published and no date was given for its publication. A related draft methods paper was published on 1 October 2002. The representative of the European Communities questioned why there was still a debate as to the methodology to be used for conducting the risk assessment four-and-a-half years after the risk assessment was begun. With the exception of Denmark (which had been assessed before the general review took place), no imports from the European Communities were permitted until the risk assessment was completed. However, the imports from Denmark were themselves subject to very stringent restrictions – such as deboning and heat treatment – which created unnecessary barriers to trade. Proposals for other equivalent measures and a request for pre-export processing in Denmark had not been accepted by Australia. The European Communities considered that the time necessary for completion of the import risk analysis was excessive and the requirements for Danish imports were disproportionate to the risk. The representative of the European Communities called on Australia to publish the import risk analysis without further delay and to give positive consideration to alternative or time-temperature combinations as equivalent measures. He noted that there was a list of over 20 products on which import risk analyses were outstanding and most had been under consideration for over five years or considerably longer. The European Communities considered these delays unacceptable and urged Australia to considerably shorten the time necessary to conduct these import risk analyses.

68. The representative of Canada stated that he shared the EC frustration with the delays in Australia's import risk analyses procedures.

69. The representative of Australia contended that it was erroneous to claim that it had taken 17 years to assess Denmark's request to export pigmeat. The presence of Aujetsky's disease in Denmark had ruled out exports of fresh pigmeat until the disease was eradicated in 1992. However, another disease porcine reproductive and respiratory syndrome (PRRS) emerged and had to be

considered in the import risk analysis which was commenced in 1994. A decision to permit the import of uncooked pigmeat from Denmark, if cooked post-arrival, was taken in November 1997. A generic import risk analysis on pigmeat was assessing import requests from a wide range of countries. Various updates had been provided – including a written update to the European Commission in the week before the Committee. A range of pig diseases were being considered, none of which occurred in Australia. Comments on the methodology paper were welcome and a draft of the risk assessment would be available as soon as possible. The representative of Australia stressed that the process was transparent and science based. Biosecurity Australia had commissioned independent research on PRRS which had demonstrated oral transmission of the virus via pigmeat. Given the lack of scientific information on its transmission via meat, it was appropriate for Australia to seek the information needed for an informed quarantine policy decision.

Philippines requirement for third party certification for HACCP plants – Concerns of Canada

70. The representative of Canada reported that on 24 February 2003, the Minister of Agriculture of the Philippines had announced that implementation of Memorandum Order 7 requiring third party certification for HACCP plants had been postponed. Canada was pleased that the Philippines had withdrawn this measure. The representatives of the European Communities, New Zealand and the United States supported the statement made by Canada.

71. The representative of the Philippines thanked delegations for their comments and confirmed that MO7 had been deferred indefinitely.

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

72. The representative of Argentina reiterated his country's concerns about unjustified restrictions by Indonesia on the importation of dairy products (G/SPS/GEN/324). He recalled that the Indonesian representative had stated that dairy products were allowed entry with the exception of liquid milk. In addition, for liquid milk and other products an inspection visit had to take place prior to export commencing. Despite an Argentine invitation for such a visit and the receipt of a questionnaire on other non-FMD diseases from the Indonesian authorities, the restrictions remained in place. As such, the Argentine representative requested clarification from Indonesia.

73. The representative of Indonesia recalled that following their bilateral meeting in November 2002, Argentina had agreed to complete a questionnaire related to the requirements for dairy exports to Indonesia. The one page questionnaire had been sent to Argentina on 27 January 2003. The Indonesian authorities stated that out of five plants in Argentina, only one had the necessary controls. In addition, it would be useful if Argentina could provide information on its control programmes. It was agreed that once this feedback was received an investigating officer would be sent to conduct an on-site review of the necessary plants in Argentina. The representative of Indonesia was confident that further bilateral efforts would resolve this issue.

Colombian FMD restrictions on bovine meat – Concerns of Argentina

74. The representative of Argentina recalled that during 2001 the sanitary service of Colombia restricted access of Argentine bovine products due to FMD. Colombia had reviewed information provided by the Argentine authorities and in mid-2002 sent a questionnaire to Argentina concerning chilled products. However, no reply had been received on the completed questionnaire. Argentina was concerned that no in situ inspections had taken place which would lead to a lifting of these restrictions. The representative of Argentina noted that he had reported to the SPS Committee on the FMD disease situation, and had not received any requests for further information. Noting Colombia's concern about cut flowers, he stated that the Argentine sanitary service did not maintain any restriction on the import of flowers from Colombia.

75. The representative of Colombia stated that his country enjoyed a favourable FMD situation. Colombia allowed the importation of low risk products, but had banned the importation of high risk materials from Argentina and notified this action to the WTO. Establishments of origin had to be authorized by the Colombian sanitary service and a programme of visits to Argentina had been planned by the Colombian authorities. However the Argentine decision to suspend the phytosanitary authorization for the import of cut flowers from Colombia in November 2001, without a WTO notification, was taken without justification. Information from the Argentine authorities was required with regard to the serological and epidemiological assessment of FMD; vaccination coverage; and the dates on which the status of disease freedom both with or without vaccination were achieved.

India's import requirements for bovine semen – Concern of Canada

76. The representative of Canada reported that although a successful conclusion had been reported to the Committee in July 2002, a further problem had been encountered and an import license request had been rejected by the Indian authorities due to some apparent connection between BSE and bovine semen. He questioned the scientific basis for the action and recalled that the OIE's recommendations supported Canada's view. He requested that India remove this restriction.

77. The representative of India agreed to convey Canada's concerns to the appropriate authorities in capital.

Argentina's BSE-related measures – Concerns of Canada

78. The representative of Canada recalled the concerns he had previously expressed with respect to the use by both Argentina and Uruguay of the European Communities' BSE risk assessment as the basis for their BSE-related measures and classification of countries. He reported that the authorities of both countries had revisited their earlier decisions and agreed they would undertake their own BSE risk assessments.

79. The representative of the United States echoed the positive statement by Canada, but noted that although Argentina's resolution allowed for the re-categorization of the BSE status of the United States, significant scientific evidence had been provided to Argentina which exceeded the OIE criteria for recognition as a BSE-free country. Consequently any restrictions were wholly unjustified. In this respect the United States requested Argentina to lift its restrictions on the importation of sweet breads.

80. The representative of Argentina reported that substantive progress had been made on this issue and he was confident that further bilateral consultations would result in its resolution.

Uruguay's BSE related measures – Concerns of Canada

81. Responding to the points raised in paragraph 78, the representative of Uruguay recalled that Uruguay was dependent on meat related products for 8 per cent of its GDP. Entry of BSE would be a complete disaster for the Uruguayan economy and public health authorities. Starting in 1996, a number of emergency measures had been taken to ensure that BSE did not enter the country. In 2001, a decree was promulgated which would restrict food products on the basis of their BSE-categorization. At the present time, this decree was suspended and bilateral discussions were ongoing. Information from both Canada and the United States was being reviewed and a final categorization of both country's BSE-status should be concluded within a short period of time.

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

82. The representative of the European Communities recalled that in April 2002, China imposed an import ban on all products of animal origin from the Netherlands on the basis of a supposed single finding of chloromphenecol in casings of Dutch origin. China had lifted restrictions on certain

products of no real trade significance, and it appeared that as the European Communities lifted its ban on certain Chinese products the Chinese authorities would reciprocate by lifting their ban on certain EC products. A satisfactory solution had not yet been found for a large number of animal products of Dutch origin, in particular dairy products. The European Communities had responded to requests for information from China in December 2002. However, these had been followed by additional questions in March 2003 and an indication that an inspection mission would be necessary before anything further could be done. The representative of the European Communities questioned why this inspection visit had not been proposed sooner. He stated that China's restrictions were not in conformity with Articles 5.1, 5.2 and 5.6 of SPS Agreement, and he urged China to withdraw its measures as soon as possible.

83. The representative of China recalled that his authorities had lifted the ban on certain products on 25 December 2002, after receipt of information from the appropriate national authorities at the beginning of December. For other products, China had been waiting for almost one year for information on the Netherlands' residue monitoring and assessment controls. Based on the information provided to date, China had identified significant defects with respect to sampling and conformity with the relevant EC directives, including sampling of dairy products or casings. An inspection visit was necessary to address these outstanding issues. The receipt of additional information from the Dutch authorities on 21 March 2003 would enable the visit of China's inspection team in the near future. China hoped to be able to report a positive outcome of this matter to the Committee before the end of the year.

EC biotechnology policies – Concerns of the United States

84. The representative of the United States recalled his previous criticisms that the European Communities' biotechnology policies breached both EC laws and WTO rules. By blocking imports on an unscientific basis, the European Communities was interfering with the use of safe food products that could stem global hunger, improve nutrition and benefit the environment. The United States was of the view that the European Communities should lift its moratorium on biotech products and it was consulting with others to determine the most expeditious way to achieve this goal.

85. The representative of Canada echoed the concerns of the United States and urged the European Union to restart its biotechnology approval process. The representative of Australia stated that although Australia was not a major GM producer and was not directly affected by the EC moratorium, it shared many of the concerns raised by the United States and Canada with regard to the lack of science based decision-making. The representative of Argentina also shared the concerns expressed by the United States.

86. The representative of the European Communities informed the Committee on the state of progress on biotechnology approval, labeling and traceability (G/SPS/N/EEC/149 and 150). On 17 March 2003, the Council of Ministers adopted a common position on each of these proposals and the legislative proposals had now returned to the European Parliament for a second reading under the co-decision procedure. The second reading should be concluded at the beginning of July 2003, which implied that the proposals should be adopted before the end of 2003. Once approved, the labeling and traceability proposals should make it possible for the moratorium on biotechnology approvals to be lifted since EC member States had imposed the moratorium in the absence of a clear regulation on traceability and labeling. In the interests of transparency, the European Commission could provide the common position of the Council to the SPS Committee, although this was not yet the final text. The biotechnology approval procedure envisaged in Directive 2001/18 was now operational and the EU Scientific Committee had given its opinion as to the procedure necessary to conduct a risk assessment. The opinion was available on the internet. Nineteen new or revised submissions had been received since the start of 2003 and the assessments had begun in accordance with the provisions of the Directive. The European Commission was awaiting comments from the Scientific Committee (a panel of independent scientists) on the risk assessments. The outcome of the risk assessments

would of course depend on the quality and conformity of the scientific data being submitted to determine the effects of GMOs on human health and the environment. As such, the representative of the European Union was hopeful that a solution to the issues raised by the United States and other delegations would be quickly found.

87. The representative of Chile, referring to the Secretariat paper on Specific Trade Concerns, suggested that countries send in written comment about how their concerns had been resolved so that at the subsequent meeting comments would only be made on pending issues.

(c) Consideration of Specific Notifications Received

G/SPS/N/EEC/149 and 150 - EC notifications on labeling and traceability of GMOs – Concerns of Argentina

88. The representative of Argentina recalled that at the last Committee he had submitted specific questions to the European Communities with regard to the labeling and traceability proposed regulations. He enquired as to whether the European Communities was in a position to be able to answer these questions.

89. The representative of the United States thanked the European Communities for the comments made in paragraph (b)86 above and stated that he looked forward to receiving the Council position on these two proposals.

90. The representative of the European Communities confirmed that the additional questions submitted by Argentina were being studied and that replies would be given on the basis of the new version of these two legislative proposals and not on the original versions. As such, the European Communities was in the process of finalizing its replies. He further recalled that detailed answers had already been given to many questions raised by Argentina in documents G/SPS/GEN/337 and 338.

G/SPS/N/BRA/74 and 75 - BSE-related measures of Brazil – Concerns of Canada

91. The representative of Canada expressed concerns over the way in which Brazil applied the European Communities' geographical BSE risk (GBR) system as the basis for classifying countries according to their BSE risk. He had previously described Canada's concerns with respect to the GBR rating system. Canada requested that Brazil conducts its own BSE risk analysis and classification of Canada. To that end, Canada had sent a copy of its BSE risk assessment to the Brazilian authorities for their consideration.

92. The representative of the United States noted that it shared the concerns of Canada. He drew the attention of Brazil to Chapter 2.3.13 of the OIE International Health Code which established criteria for the determination of BSE risk of a country or region. The United States met the OIE criteria for a country free of BSE and had completed a risk assessment on all the factors for BSE occurrence. Active surveillance for BSE continued at levels far exceeding those of the international standard and a strong BSE awareness programme had been developed for veterinarians, farmers and others working with ruminants. The OIE Code recognized that certain tissues could be traded if they originated in countries, such as the United States, which were free of BSE. The United States also questioned Brazil's use of the EC risk assessment classifications and noted that the European Communities had stated that its risk assessment classification system was not meant to serve as an international standard. On this basis, the United States believed that any measures against its exports of cattle, beef or any other products because of BSE were unjustified and not consistent with WTO obligations.

93. The representative of Brazil noted that human health concerns were at the root of the measures which referred to international standards from OIE and the EC classification system. Thus far, Brazil had not been able to conduct a risk assessment for all countries and the provision of Canada's risk assessment would assist the Brazilian authorities in this regard. Brazil would take into consideration decisions reached at the OIE International Committee meeting in May 2003 when reviewing its measures.

G/SPS/N/EEC/131 - EC Notification on plant and plant products – Concerns of Israel

94. The representative of Israel noted that EC notification G/SPS/N/EEC/131 concerned an amendment to EC regulation 2000/29/EC which came into force on 1 April 2003, and might have significant effects on the export of plant products to the European Communities from a number of Members. In the case of Israel, the export of flowers represented 25 per cent of total exports of fresh agricultural products. Some exporting countries, notably developing countries, would have to go through major structural changes, scientific adjustments and financial expenditures as a result of these measures. Israel would have to introduce changes to its inspection procedures while producers would have to undertake major investment in new infrastructure. These changes involved a shift in production from open field sites to greenhouses, and this could not be achieved in the time currently envisaged before the entry into force of the amended EC regulations – even after extension by the EC authorities. On 11 March 2003, Israel held bilateral consultations with the European Communities regarding the implementation of the new measures. At that meeting Israel expressed concerns regarding differentiation between European and non-European varieties of *Bemisia tabaci* and the existence of the non-European variety in some EC countries. Israel was in the process of analyzing two pest risk analyses produced by the European Communities and noted that it shared the EC's concerns with respect to the list of pests and viruses covered therein.

95. The representative of Kenya noted that it shared Israel's concerns with regard to unnecessary delays and adverse effects on cut flowers exports. Bilateral consultations with the European Communities on technical assistance on capacity building had not progressed as desired. Consultations would continue and Kenya was hopeful an amicable solution could be found.

96. The representative of the European Communities recalled that the measures had been enacted after constant interceptions on products such as fresh cut flowers led EC member States to review their protective measures. The proposed measure had been notified to the WTO on 19 July 2001. The date of entry into force of these measures had been envisaged for 1 January 2002, however because of comments received, the European Communities agreed to postpone entry into force of these measures until a later stage. The amended rules were finally published on 3 May 2002, and in order to take into account the comments made, the entry into force was postponed until 1 April 2003 – 16 months after the initial date for the entry into force. This delay in the entry into force clearly indicated that the European Communities had taken into consideration the difficulties of certain exporting countries. Nevertheless, the European Communities had a responsibility to maintain its appropriate level of protection and could not indefinitely postpone the implementation of these measures. Market access of cut flowers into Europe was not being called into question and the European Communities had already taken all necessary measures to avoid any breakdown in trade. The representative of the European Communities stated that, if so desired, further bilateral consultations could take place on this matter.

G/SPS/N/EEC/192 - EC notification on transitional BSE measures – Concerns of the United States

97. The representative of the United States thanked the European Communities for notifying the transitional measures for implementing Regulation 999/2001 concerning transmissible spongiform encephalopathies (TSEs). This regulation stated that a decision regarding the risk categorization of countries would be made within six months of submission of the information. However, the newly notified measure extended the transitional measures currently in force until 30 June 2005, which

raised the US concern of whether or not the European Communities would have completed the classifications by that time. In the past, the United States had expressed concerns with the EC legislation on TSEs and the effects that the transitional legislation had on exports of animals and animal products. Restrictive trade measures had been applied since July 2001 and the United States questioned the justification for their maintenance. In particular, there was no scientific justification for applying BSE-related restrictions on products from the United States. The United States was free of BSE and had an extensive surveillance system in place for the disease. A risk assessment had been undertaken which amply supported the US BSE status. The representative of the United States was also concerned by the discriminatory application of the transitional measures as US products should be treated the same as any other BSE-free country.

98. The representative of the European Communities explained that the notification concerned an amendment to Article 23 of EC Regulation 999/2001 establishing rules for the eradication, prevention and control of certain TSEs. It aimed not just at BSE, but all TSEs. The amendment extended transitional measures established under Article 23 of this regulation. The regulation provided rules to determine the BSE status of particular countries which conditioned the application of measures covering the import of certain animals and animal products. Until the status determination was made, transitional measures were applied and were to remain in force until 30 June 2003. An assessment of cases began at the end of 2001. However it was quickly obvious that modification of the categorization criteria was necessary to obtain a status reflecting actual risk. These criteria were taken from the international code of the OIE. Regrettably, it appeared that the OIE was not ready to propose a list of BSE-free countries. Likewise in the European Communities, scientific risk assessments for all countries were not yet finished, and the EC Scientific Committee had adopted opinions for only around one-third of countries asking for a determination of their status. Therefore the transitional measures were being prolonged by two years until 1 July 2005. The European Commission would use this period to advance the work in the OIE on determining the BSE and TSE status of countries and to complete the scientific risk assessments. The European Communities appreciated the substantial documentation submitted by the United States in January 2003, and would report to the United States on the results of the risk assessment as soon as possible.

(d) Matters relating to the operation of the transparency provisions

99. The Chairperson noted that this agenda item provided the opportunity for delegates to raise any other matters regarding transparency. These could be, among others, related to notification procedures in general or to problems encountered in the operation of Enquiry Points or to difficulties in obtaining requested information from other Enquiry Points. The notifications received since the last Committee meeting were summarized, on a monthly basis, in documents G/SPS/GEN/365, G/SPS/GEN/368, G/SPS/GEN/370, and G/SPS/GEN/374. The most recent list of National Notification Authorities was contained in G/SPS/NNA/4 and Add. 1, and the most recent list of National Enquiry Points in G/SPS/ENQ/14 and Add. 1. An update on Members' implementation of the transparency provisions was provided in G/SPS/GEN/27/Rev.10.

100. The representative of China recalled that his delegation had offered to analyze the implementation of notification obligations under the SPS Agreement by WTO Members during 2002. The Report of the Analysis on SPS Notifications in 2002 by China was contained in document G/SPS/GEN/378. The analysis showed that in 2002, 47 Members had submitted a total of 663 SPS notifications, including 374 Routine Notifications (55.6 per cent) and 96 Notifications of Emergency Measures (14.3 per cent). Only 79 out of 374 routine notifications, accounting for 21.1 per cent, had allowed at least 60 days for comments, meaning that the remaining 78.9 per cent had either allowed a comment period of less than 60 days or not specified a final date for comments. Only 14 notifications (3.7 per cent of routine notifications) provided Members at least six months for compliance with the new SPS measures, while 96.3 per cent either provided an adapting period of less than 6 months or did not state the date of adoption and/or the date of entry into force.

101. Based on this analysis, China had submitted a proposal for amending the SPS notification procedures with a view to strengthening the implementation of the transparency obligations (G/SPS/W/131 and Corr.1). China suggested a revision of the last sentence in paragraph 8 of the "Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement (Article 7)" (G/SPS/7/Rev.2), so that the 60-day comment period would be calculated from the date of circulation of the notification by the WTO Secretariat. Item 12 of the table under paragraph 36 of the Recommended Notification Procedures would be revised accordingly.

102. Many delegations commended the Chinese delegation for their important and enlightening work and requested the opportunity to revert to the matter at the subsequent SPS Committee meeting.

103. The representative of the European Communities suggested that, in cases where the text of the notified measure was requested from the notifying Member, the comment period should start once the text had been communicated and not upon circulation of the notification. This arrangement would allow for sufficient time for review of and comments on the measure, which was often a problem due to late receipt of the text and/or translation requirements. The representatives of Egypt and Argentina expressed their delegation's interest in the proposal. However, the representative Argentina wondered how the 60-day period would be calculated, particularly when there were requests from various countries for the text of the measure. It was not clear whether there would be a single deadline for making comments or different ones depending on the request.

104. The representative of the United States stated that his delegation had some concerns about adopting too quickly changes to notification procedures. In line with the US regulatory structure, all SPS measures notified to the SPS Committee allowed for a 60-day comment period. There was pressure domestically as well as from trading partners to expedite the process related to these measures, some of which introduced trade restrictions while others facilitated trade. Therefore, a number of factors had to be taken into account before reaching any decision to extend the comment period. The representative of New Zealand also emphasized the importance of being able to benefit immediately from trade facilitating notifications without necessarily waiting for a 60-day comment period.

105. The representative of Malaysia, noting the proposals by China and the European Communities, referred in particular to paragraph 10 of document China's report which stated that 11 out of more than 300 notifications in 2002 had final dates for comments which were earlier than the corresponding dates of notification, meaning that, contrary to agreed procedures, there was no comment period. The question was whether the procedures needed to be modified or whether the onus would fall on Members to provide longer comment periods to take into account the time-lags involved.

106. The representative of Canada stated that while they had some sympathy for the views expressed by the European Communities, they also agreed with United States that modifications should not be rushed. He gave the example of an emergency notification from Brazil, which had come out on 23 January 2003, after having been in effect for two months. The Canadian embassy in Brasilia had immediately requested and received a copy of the actual document, which had then been translated from Portuguese for study in Ottawa. In the meantime one week was lost due to the Carnival. In the end, Canada had not been able to provide its comments within 60 days. Developing countries probably had even more difficulties meeting the comment period deadlines. It would be much better to introduce some flexibility to the comment period and get comments in before a measure came into effect. He suggested that the Committee have informal discussions on possible solutions. The delegations of Australia, Brazil, Chile, China, India, Japan and New Zealand also expressed their interest in informal consultations.

107. The representative of Japan expressed his delegation's concern that delays due to the Secretariat's workload could affect timely implementation of measures by Members.

108. The Secretariat explained that many of the issues regarding the transparency procedures had been previously discussed in the Committee but not agreed upon for different reasons. While it had been suggested earlier to start the comment period with the date of circulation to Members, some Members had been concerned that their own domestic procedures required that they publish the closing date for such comments, which would not be possible if it depended on circulation by the Secretariat. While the Secretariat tried to turn around notifications in two to three days, there were sometimes delays, for example when they arrived during holiday periods, during preparations for a Ministerial Conference or when staff were engaged in work-to-rule actions. Another problem was the quality of information provided on the notifications. This had improved over the years, but the Secretariat still received notifications that were incomplete or incorrect and was faced with the decision of whether to circulate the notification as received or to seek correction or clarification from the submitting Member. The decision depended on whether the comment period was relatively long, or already expired. Sometimes Members responded within a day or two to queries from the Secretariat but other times there were long delays in getting clarification from the notifying Member, leading to further delays in circulation. Regarding the actual texts of measures notified, a new and useful practice by some Members was to include in the notifications a direct link to the internet site where the draft document could be downloaded. It would be useful if all Members which placed their draft regulations on a website could indicate the relevant internet address in their notifications. Concerns about translation of notified measures had also been discussed in the past and could be dealt with more successfully as technology improved.

109. The Secretariat recalled that the SPS Committee regularly reviewed notification procedures and adopted modifications, including in the previous year. Although letters were sent out to all national notification authorities and enquiry points to inform them of format changes and new procedures adopted by the Committee, the Secretariat continued to receive notifications in the old format for months after changes had been adopted. The Secretariat had also produced documents regarding Members' implementation of transparency provisions (G/SPS/GEN/27/Rev.10). Eight years after the entry into force of the SPS Agreement, 17 Members still had not identified an enquiry point while 27 Members had not yet notified a national notification authority. These were basic and not very onerous obligations. The report by China had noted that out of 145 Members, 47 had submitted notifications during 2002, meaning that 98 Members had either made no changes to their legislation and regulation during that year, or had failed to notify changes. Of greater concern was the fact that many Members had never notified a single SPS measure since the entry into force of the Agreement. It was rather difficult to conceive of any government that had not made any modifications to their SPS measures in that period. In light of these facts, notification-related problems went beyond the respect of comment periods in the past year.

110. The representative of China stated that his country had also failed to provide the recommended 60-day period in several notifications during 2002 due to technical problems. Their domestic agency would notify a measure to his office calculating the comment period from the date they sent it off. But then his office needed some time before sending the notification to MOFTEC, which then forwarded it to the permanent mission, which then forwarded it to the Secretariat, which also needed some time for processing. In the end, the time period for comments ended up being less than 60 days and that was the reason behind their suggestion to modify the recommended procedures to start the comment period with the circulation of the notification to Members. Members would have the right to enforce certain measures with immediate effect but the recommended period for comments needed to be at least 60 days, even more if so wished.

111. The Committee agreed to further consider the analysis by China and the implementation of the transparency provisions at an informal meeting prior to its next regular meeting.

III. THE SPS AGREEMENT AND DEVELOPING COUNTRIES

112. The Chairperson recalled that both Egypt and Canada had made specific proposals related to the transparency of special and differential treatment (S&D). Egypt had proposed to add a box to the notification formats to indicate whether S&D had been provided. Canada had proposed that special and differential treatment provided in the context of the adoption of a new SPS measure be notified ex-post through an addendum to the original notification (G/SPS/W/127). Subsequently, Egypt had circulated its comments on the Canadian proposal in document G/SPS/GEN/358. At the SPS Committee meeting in November 2002, Canada had suggested that the Committee adopt its proposal at this meeting as an early harvest in implementing the S&D provisions of the SPS Agreement.

113. Reporting on the informal meeting on special and differential treatment held on 1 April 2003, the Chairperson stated that Members had continued the discussion of proposals by Egypt and Canada initiated in the Committee's review of the recommended transparency procedures the previous year. The representative of Egypt had welcomed the Canadian proposal as a step in the right direction, but had reiterated that it did not fully address its concern to operationalize Article 10 of the SPS Agreement. Many developing countries had major problems in dealing with the flood of notifications submitted by their trade partners, thus losing the opportunity to comment on the notifications in the allowed time-period. Furthermore, Canada's proposal had not specified the desirable result of the bilateral consultations to be held and contained best endeavour language. One practical alternative could be a sort of "pre-notification" mechanism according to which developed countries would give advance notice of a draft notification following which consultations could be held with interested developing countries. The final notification would include changes agreed in the consultations. Egypt believed that more could be done to meet developing countries' difficulties and welcomed the Secretariat's information on its own efforts in this regard. Several developing country Members had supported Egypt's views.

114. Canada had recognized that the application of the S&D provisions of the SPS Agreement had been disappointing, but had noted that discussions had dealt with only one aspect of S&D. An *ex ante* approach as proposed by Egypt would be difficult to implement. An importing country could probably not identify possibilities for S&D in advance, but it could try to find a solution to a problem identified by a developing country. The main objective should be to find helpful and practical solutions; it made no difference whether the outcome was S&D or technical assistance as long as the problem of the developing country was solved. The idea of a "pre-notification" mechanism was interesting and needed to be explored further, but Canada suggested that, as a first and practical step, the Committee agree to the Canadian proposal while continuing discussions of possible additional actions.

115. The European Communities had highlighted its efforts with regard to notifications and explained the mechanisms used to give expeditious responses to questions raised by Members, in particular access to the text of its draft regulations through its Internet site. The European Communities had done a simulation exercise covering the past 24 months. During this period, the European Communities had submitted 126 notifications, but received comments on only 29 of these. About 25 percent of the comments were from developing country Members and related to S&D. In these cases, the European Communities had tried to meet the developing countries' needs, including through technical assistance to improve market access. The European Communities considered that longer periods of time for comments might facilitate developing countries requests for S&D. However, if Enquiry Points did not work properly, any efforts in this regard could be useless and a better solution could be technical assistance aimed at reinforcing the functioning of Enquiry Points. With regard to the "pre-notification" mechanism suggested by Egypt, the European Communities had indicated that it issued "white papers" and "green papers" which contained the general guidelines for future measures. Several Members had agreed with the technical assistance approach suggested by the European Communities.

116. The representative of the Philippines, speaking on behalf of ASEAN, stated that there had been a considerable amount of discussion in the WTO on the importance of S&D treatment to developing countries, particularly in the context of the SPS Agreement and the technical and scientific aspects associated with SPS measures. They found Egypt's proposal for an S&D box in notifications very useful as it could enhance transparency in respect of the operationalization of Article 10.1 of the SPS Agreement. In particular, the elements listed in point 7 of the Egyptian response (G/SPS/GEN/358) was information which could possibly be identified ex-ante. ASEAN noted that the Canadian proposal using an ex-post approach towards identifying S&D measures could be a more practical method than an ex-ante approach, as specific S&D needs could be identified. They noted that Canada had suggested that bilateral consultations based on S&D requests could take place after the notification was made. In this case, depending on the number of requests, plurilateral consultations could also be undertaken. However, this should not replace the full implementation of the obligations under Article 10.1 of the SPS Agreement, which stated that the preparation and application of SPS measures shall take into account the special needs of developing countries. Hence, ASEAN countries were of the view that relevant actions such as consultations during the preparatory phase prior to the application of the SPS measure might be necessary. They also observed that the timeframe for undertaking consultations during the comment period could be limited as the measure normally came into force after that. They were not sure, therefore, whether the normal comment period of 60 days would be sufficient in this regard.

117. The United States had indicated that it would develop a proposal for a "pilot project" for consideration at the subsequent Committee meeting. The aim would be to determine how an importing Member could identify which developing countries could be affected by a proposed SPS measure, so that the notification could be brought to their attention. The United States had also indicated that it extended the period of time for comments upon request, when the measure allowed, and the extension applied to all countries. Several Members had welcomed the US proposal.

118. Chile had indicated it would submit a paper on notifications and S&D for the upcoming meeting.

119. Supporting the Canadian proposal, Brazil had stressed that there was a "missing link" in the notification process and S&D, noting the "waves of notifications" reflecting, *inter alia*, new detection methods and had stressed the need to address this problem. But it was not enough for developing countries to realize that they could be affected by a measure; they needed to be able to address the effect. Technical assistance could well be the answer.

120. Uruguay had stressed the need for prompt and concrete results from the discussions. A lot of time had already been devoted to this important issue in the context of the Doha Declaration in various WTO bodies. Proposals needed to be addressed urgently, if necessary through additional informal meetings.

121. Jamaica was of the view that the practical application of Egypt's proposal might be somewhat cumbersome. Canada's proposal, along with technical assistance aimed at the reinforcement of Enquiry Points, and longer comment periods, could be a more practical approach.

122. The Secretariat had suggested that it could be helpful if some Members provided information on how they managed the screening of notifications, the solicitation of information from their exporters, and the submission of comments to importing Members. It could be possible to identify some best practices in this regard which would be helpful for developing countries to consider.

123. Several Members had suggested that an informal meeting be scheduled prior to the June Committee meeting to continue discussions of additional possible actions.

124. Following the Chairperson's report, the representative of China stated that as the biggest developing country and a new Member facing difficulties in compliance with the SPS Agreement, China wished to see Article 10 as operational as possible. Despite the fact that 20 staff were working in their SPS enquiry point on translations and information dissemination, their resources were stretched.

125. The representative of Cuba stated that her delegation considered the useful proposals by Canada and Egypt constituted part of a solution addressing the concerns of developing countries regarding the SPS Agreement. The representative of Honduras suggested an informal meeting to reach agreement on the proposal by next meeting. The representative of Argentina said that the Committee should not lose the opportunity to advance on the matter.

126. The representative of Malaysia noted that the Canadian proposal with its ex-post approach provided an opportunity for Members to provide information on any S&D request received pursuant to a notification and had practical value in terms of transparency, although the actual value of the procedure would depend on the proactivity of developing countries in requesting consultations. While they supported the proposal, it was only one way of operationalizing S&D provisions stipulated in Article 10 of the SPS Agreement and further work needed to be done to address other relevant issues. As noted by China, there were more than 600 notifications in 2002 alone and those from developed countries were two thirds of all notifications. It was difficult for developing countries to respond to these notifications. Malaysia welcomed an opportunity to discuss various proposals by Members.

127. The representative of Belize suggested that the Committee also consider the paper by the FAO on a "Conceptual Framework for Capacity Building in the Aspects of Food Safety, Animal and Plant Health" during its next informal meeting. Belize also wondered whether the new STDF would work in coordination with the FAO initiative, and how the responses to the SPS questionnaire on technical assistance would be taken into consideration.

128. The representative of India stated that the ex-post approach as opposed to the ex-ante approach towards identifying S&D measures was addressing only one problem among many that developing countries faced, in this case in responding to SPS notifications. The proposal for greater transparency should not replace obligations contained in Article 10 of the Agreement.

129. The representative of the United States indicated that in the context of S&D discussions, specific problems needed to identified so that pragmatic ways to address them could be found. The last two meetings had brought some specificity to the nature of the problem. The United States accepted in principle the Canadian proposal, however, a more precise elaboration was needed of the procedures to be followed. With respect to the flood of notifications and the challenge of assessing which measures affected developing countries most directly, there was in fact an entry in the notification format for indicating which Members might be affected by a specific notification. However, the monthly summary of the latest notifications in document G/SPS/GEN/374 showed that this information was not always as useful as it could be. The United States would submit information before the June meeting on how it could provide more specific information on the potential effects of a notified SPS measure on the export products of developing countries. It would then seek comments on the usefulness of this approach in dealing with the flood of notifications.

130. The representative of Japan considered the Canadian paper as a good step forward. His delegation was also ready to discuss specific ideas from the United States and others.

131. The representative of Canada stated that their proposal was a part of the solution to improve the operationalization of S&D issues and Canada was prepared to continue discussions on the matter. Egypt's comments had provided further ideas.. He proposed that the Committee adopt the proposal, and the Secretariat could provide a more detailed description of the procedures.

132. The representative of Brazil suggested adoption of the proposal as an early harvest without prejudice to the continuation of work on S&D matters.

133. The representative of Egypt agreed that the Canadian proposal of an addendum could constitute part of the solution by enhancing transparency, but Egypt's comments on the Canadian proposal contained other issues of equal value for consideration in future meetings.

134. The representative of Australia expressed support for moves to improve transparency with respect to S&D, but suggested reverting to the proposal at the subsequent meeting in order to allow time for a better assessment of whether it could deliver the expected results.

135. The representative of the European Communities was of the view that the Canadian proposal would serve a useful purpose, especially if there was an interactive process between notifying Members and those requesting consultations, as Egypt had underscored. His delegation had some concerns about the practical manner in which the box in the notification sheet would be filled in. It was important to consider the consequences for those working on a daily basis with notifications and he would appreciate a continuation of discussions. The cornerstone of the system which needed improvement was the functioning of enquiry points and national notification authorities. Further efforts were needed to develop the necessary infrastructure.

136. The representative of the Philippines, speaking on behalf of ASEAN, suggested that the Chair's concluding remarks clarify that the transparency proposal by Canada represented only one approach towards fulfilling SPS obligations under Article 10.1. His delegation was willing to consider other proposals.

137. The representative of Canada supported Brazil's statement and clarified that no new aspect would be introduced to the initial notification procedures. The Secretariat was urged to redouble its efforts to draw notifications to the attention of the developing countries concerned. If a Member indicated interest in a measure notified by Canada, it would mean that Canada would have to respond constructively to the expression of interest by another Member. The only new aspect was that Canada would need to inform the Committee of the results of the discussion, which might have led to no particular action by Canada or to a solution. This was a simple but powerful way of enhancing transparency. His delegation also looked forward to further elaborations, for example from the United States regarding the beginning stage of a notification.

138. The Committee agreed to accept in principle the Canadian proposal as one step for immediate implementation by Members to subject to the elaboration of the related procedures to be followed. The Committee also agreed to consider other proposals and possible actions which had been identified, including the proposals put forward by Egypt, at its subsequent meeting. The Committee recognized that the issue was not fully resolved, but that one step had been taken in addressing the problem of implementation of the S&D provisions of the SPS Agreement.

IV. EQUIVALENCE – ARTICLE 4

139. The Chairperson stated that the programme for further work on equivalence as laid out in document G/SPS/20 specifically identified a number of actions which needed to be undertaken at the meeting:

- Information from Members on their experiences regarding implementation of Article 4.
- Consideration of information from the Codex, OIE and IPPC regarding their work on the issue of equivalence.

- Consideration of any notifications received regarding agreements recognizing equivalence.
- Consideration and, if possible, adoption of guidance for accelerated procedures for the recognition of equivalence of products historically traded.
- Consideration and, if possible, adoption of text clarifying the provisions of paragraph 6.
- Consideration of a draft text clarifying the provisions of paragraph 7.

(a) Report of Informal Meeting on Equivalence

140. The Chairperson said that since the Committee had already agreed on clarifications for paragraph 6 (contained in G/SPS/19/Add.1), it could concentrate on paragraph 7 of the Decision on Equivalence. Paragraph 7 read: "When considering a request for recognition of equivalence, the importing Member should analyze the science-based and technical information provided by the exporting Member on its sanitary or phytosanitary measures with a view to determining whether these measures achieve the level of protection provided by its own relevant sanitary or phytosanitary measures". Based on written submissions by Argentina and Australia, and on discussions at previous meetings, the Secretariat had prepared a note on the clarification of paragraph 7 of the Decision on equivalence (G/SPS/W/128). In addition, Argentina had submitted comments on the Secretariat note regarding paragraph 7 (G/SPS/W/130). These documents had been discussed during the informal meeting on equivalence, on which the Chairperson reported:

141. Argentina had suggested modifying the draft recommendations to include part of the Codex Committee on Food Import and Export Inspection and Certification System (CCFICS) draft Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems, which had been forwarded to the Codex Alimentarius Commission for final adoption in June/July 2003. Argentina had indicated that its aim was to create more balance between the obligations of exporting Members and those of importing Members when determining equivalence. In Argentina's view, the Codex Guidelines regarding the use of an objective basis for comparison that were cited in the Secretariat paper were applicable not only to food safety, but also to animal and plant health, and should therefore form part of the general guidance to be provided by the SPS Committee. The concept of an objective basis for comparison should effectively take care of the difficulties that the concept of appropriate level of protection (ALOP) generated in determining equivalence, establishing clear and concrete parameters for exporting countries.

142. Some Members had expressed doubts as to whether part of the draft CCFICS guidelines should be adopted by the SPS Committee before being formally adopted by the Codex Alimentarius Commission. Although they considered that these guidelines were useful, CCFICS had developed these guidelines only for application in the area of food inspection and certification systems. The CCFICS guidelines might not be the most appropriate in the animal or plant health contexts, and might not even apply to all equivalence determinations in the food safety area. These Members had not agreed that the SPS Committee should instruct the standard-setting organizations how to proceed with their work on equivalence, but leave each organization free to determine the best approach to equivalence in its area of work. Some Members had suggested changes to the wording of the draft recommendations to address these concerns.

143. Several Members had also indicated that they considered the Guidelines to Further the Practical Implementation of Article 5.5 in document G/SPS/15 to be relevant in this context. A number of Members had suggested that the draft recommendations should not refer to only one of the Article 5.5 guidelines but to the Guidelines in general, since they were to be read as a whole. Some Members had noted that the Committee had no information regarding the effective implementation of the Guidelines on Article 5.5.

144. Argentina had expressed the view that the Committee had not yet completed its work on the clarification of paragraph 5 of the Decision on Equivalence. They had suggested that the Committee, or at least interested Members, hold additional informal meetings before June to ensure that the substantive work on both paragraphs 5 and 7 could be finished before the Cancún Ministerial Conference. This Member had also suggested that it would be appropriate for the Chairman of the SPS Committee to report to the General Council on the progress made regarding the clarification of the provisions on equivalence.

145. The Committee had informally agreed to request the Secretariat to revise its document to reflect the changes suggested by various Members, and had suggested that it would be useful to continue the discussions at an informal meeting prior to the next formal meeting of the Committee.

(b) Consideration of specific provisions of the Decision – Paragraph 7

146. The representative of the European Communities stated that the text from the draft Codex Guidelines should not be totally isolated from the rest of the proposal but be considered in its proper context since Codex had already adopted guidelines in order to judge the equivalence of systems before proposing guidelines to judge the equivalence of measures.

147. The representative of Malaysia stated that his delegation had systemic concerns about referencing the draft Codex guidelines in the clarification of Paragraph 7 of the Decision on Equivalence and needed more time for consideration. The representative of China stated that translating Committee documents took time and that China would have comments by the next meeting.

148. The representative of Chile remarked that the Codex document was dealing with guidelines regarding equivalence agreements while the Committee was considering issues related to the SPS Agreement. Referring to paragraph 10 of the submission by Argentina, he observed that at least 4 of the 5 parameters emanating from the draft Codex guidelines could be horizontally applicable to other areas of animal and plant health.

149. The representative of Egypt sought clarification as to whether it would be possible to conclude work on the question of equivalence, which was an implementation issue, before the Cancún Ministerial Conference. He also wondered about the Committee's level of progress vis-à-vis the Programme of Further Work agreed upon the previous year.

150. The Secretariat replied that whether the Committee could complete its work before Cancún depended on what was perceived to be outstanding. According to the work programme, the Committee was to clarify paragraphs 5, 6, and 7 of the Decision on Equivalence. At the previous meeting, agreement had been reached on the clarification of paragraphs 5 and 6, but Argentina now was seeking further clarification of paragraph 5. In terms of paragraph 7, the Committee was on schedule and should try to reach agreement at the subsequent meeting.

151. The Committee agreed to hold an informal meeting before the subsequent Committee meeting to discuss pending issues on equivalence. The Secretariat was requested to prepare a revised draft on the clarification of paragraph 7 of the Decision on Equivalence, taking into account the comments made.

(c) Information from Members on their experience

152. Under this agenda item, Members were invited to recount their experience in applying the concept of equivalence. No written submissions were received ahead of the Committee meeting.

153. The representative of Guatemala pointed out that significant progress had been made in consultations with Mexico regarding a requirement by Mexico that fresh fruits and vegetables, including raspberries and other berries, imported from certain countries be washed with chlorine water. The phytosanitary measure had come into effect following the cholera pandemic in the American continent. Within the framework of the free trade agreement among the Northern Triangle countries (El Salvador, Honduras, and Guatemala) and Mexico, a Sanitary and Phytosanitary Committee had been set up in September 2001. During a meeting of the technical committee on 10-11 February in Guatemala City, Guatemala had repeated its request for equivalence. Mexico had announced that as part of a five-year revision of the appropriate regulation, it was considering replacing the condition for treatment with chloride water by a label of good practice for berries coming from Guatemala. They hoped to be able to report the final outcome at the subsequent meeting.

(d) Information from Relevant Observer Organizations

154. The representative of Codex reported that the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) had finalized draft Guidelines for the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems, which would be subject to final adoption during the 26th session of the Codex Alimentarius Commission in June/July. He confirmed that related guidelines concerning the development of equivalence agreements had been adopted by the Commission in 1999. A discussion paper on the judgement of equivalence of technical regulations associated with food inspection and certification systems was also being considered, although it did not deal with sanitary measures. While focusing on consumer safety and health issues, the Codex Commission collaborated with the OIE and the IPPC in areas of animal and plant health.

155. The representative of the OIE reported that the draft OIE guidelines on the judgement of equivalence of sanitary measures relating to international trade in animals and animal products had been circulated in July for comments and had then been considered by the Code Commission during its December meeting. The OIE guidelines had been further revised taking into account the CCFICs draft guidelines and would be presented for discussion and possible adoption at the General Session in May.

156. The representative of Argentina suggested that the Committee inform the General Council of the work undertaken on equivalence. He also welcomed the update on the progress made in the OIE. As the implementation of Article 4 depended on the activities of the three sister organizations, it was important to establish some general principles in the SPS Committee which could guide the activities of these organization, where the degree of progress on equivalence issues varied. It was in the IPPC where efforts needed to be multiplied.

V. DISEASE-FREE AREAS – ARTICLE 6

157. The representative of Chile highlighted problems in the implementation of Article 6 (G/SPS/W/129 and G/SPS/GEN/38). Even when Members reached a certain sanitary status following guidelines from international organizations, such as the OIE or the IPPC, after great cost and effort, they still faced problems with transparency, disparities in the recognition process and sometimes delays of several years. The issue had been previously raised by the European Communities (G/SPS/GEN/101) and by South Africa (G/SPS/GEN/139); however the implementation problems remained. Members regularly informed the Committee of progress achieved in declaring an area pest- or disease-free, but many specific trade concerns, dealt with failure to recognize this status, for example, measures related to the foot and mouth disease. He suggested that Members present practical problems based on their experiences regarding recognition of their plant and animal health status possibly in an informal meeting.

158. The representative of Argentina shared the concerns expressed by Chile regarding implementation problems and costs related to regionalization and recognition, which could become a useful tool for trade facilitation. The representative of Peru agreed that implementation and administration problems related to regionalization was a major problem that needed to be further analyzed. Peru had at great cost achieved the status for being free of certain pests or diseases and could not afford to wait for importers to conclude their own risk assessments before recognition.

159. The representative of Brazil announced that his country would shortly notify the classification of the northeast region of Brazil as being free of *Anastrepha grandis* and also the lists of pests either not present or under control in Brazil, based on IPPC standards.

160. The representative of the United States underlined the importance of having representatives of OIE and IPPC participate in the informal discussions on regionalization. The representative of Canada stated that his country had put in place regionalization measures for a number of products imported from other countries, including Argentina, Brazil, Chile, France, and the United States. He invited Members to reflect on the significant role of international standard setting organizations as well as of the Committee in addressing issues raised by Chile and others. The representative of Australia suggested that OIE and IPPC be invited to make presentations at the start of the informal meeting.

161. The representative of Mexico said that Article 6 was one key element in facilitating trade in foodstuffs between Members. Mexico proposed that the Committee consider developing guidance on procedures for the recognition of zones free of pest or disease (G/SPS/GEN/388).

162. The representative of China noted that the fact that China was neither a member of IPPC nor a full member of the OIE created difficulties in achieving recognition of their sanitary status. The representative of Jamaica registered interest in the matter of declaration of countries free of exotic diseases. Jamaica would present a paper on progress made in the eradication of bovine tuberculosis and brucellosis in Jamaica.

163. The representative of Egypt welcomed the opportunity for Members to share national experiences, particularly relating to the two problems identified by Chile: importing countries not giving effect to the recognition by an international organization and administrative and procedural disparities and problems.

164. The representative of the OIE said that regionalization work was going on in the OIE, in particular with regard to introducing a managerial basis for delineating disease free areas, in addition to the geographical one, whereby assessments of recognition could be made at the enterprise level.

165. The Committee agreed to hold an informal meeting with respect to Article 6 immediately prior to the next regular meeting.

VI. TECHNICAL ASSISTANCE AND COOPERATION

(a) Information from Members on the technical assistance questionnaire

166. Since the previous meeting, Costa Rica, Barbados, Peru, Cyprus, and the Dominican Republic had either replied to the questionnaire for the first time, or provided an update or revision of their reply in the document series SPS/GEN/295 and its Addenda.

167. The representative of Tunisia and of Barbados requested information regarding any follow up to the technical assistance questionnaire, and proposed that this be reported to the Committee for transparency purposes.

168. The representative of Australia indicated that they took into account the need identified by developing countries in the development of their bilateral programmes of assistance. A list of Australia's SPS-related technical assistance activities would be submitted for the next meeting.

169. The representative of China stated that they had not received any reply to their submission of the questionnaire. China had proposed to send 102 senior officials to the WTO for a 10-month training programme, following two months domestic training, but the Secretariat was unable to receive officials for on-the-job training. Bilateral discussions on the training of Chinese officials in the United States, European Communities, Canada, and Australia were underway. China was also seeking to send officials to the three sister organizations.

170. The Secretariat clarified that the statutes of the Secretariat did not allow the employment of any staff who received payments from other sources. Given the role of the Secretariat in negotiations and dispute settlement, the requirement of neutrality of the Secretariat staff was fundamental.

171. The representative of New Zealand requested an update on an earlier proposal for more targeted questionnaires to better understand developing country's priorities. She suggestion that a list of SPS experts be established for developing countries to call upon.

172. The representative of Egypt underscored the importance of the questionnaire in identifying needs in the SPS, and the need of a mechanism to enhance delivery of technical assistance. He drew attention to the work of the TBT Committee in this area, where the first component was the questionnaire and the second the organization of a symposium to demonstrate experiences of developing countries. He proposed that the Committee invite the secretary of the TBT Committee to make a presentation on this at the next meeting.

(b) Technical assistance activities

173. A representative of the Secretariat reported on the technical assistance activities held since the Committee's meeting in November. A regional seminar had been held in December in Angola and was addressed to the Portuguese speaking African countries of Angola, Cape Verde, Guinea Bissau, Mozambique, and Sao Tome and Principe. They were all LDCs and the lack of awareness of SPS-issues was significant. An across-the-board approach to technical assistance was necessary, from simple establishment of legal and administrative frameworks, such as establishment of enquiry points, to more hands-on training with special emphasis on market access aspects for the commodities that the countries had the potential to export.

174. The second seminar had been for certain Asian countries including Cambodia, Indonesia, Malaysia, Philippines, Thailand and Vietnam. With respect to these countries, the SPS Agreement was well understood particularly in the four WTO Member countries. The legal framework, administrative internal coordination and regional mechanisms were beginning to be put in place and the national coordination mechanisms worked. The needs were of a different nature and related to meeting requirements of importing countries, which were in some cases perceived to be very demanding.

175. Another seminar had been held in the Dominican Republic for Cuba, El Salvador, Guatemala, Honduras, Nicaragua, and Venezuela. Areas requiring further work for this region were the regulatory frameworks and the transparency mechanisms. Risk assessment was perceived to be the most difficult issue in all regions due to lack of qualified personnel and infrastructure.

176. The Secretariat reported on the Standards and Trade Development Facility (STDF) (G/SPS/GEN/371). The objectives of the new facility included improved coordination among the WHO, OIE, FAO, World Bank and the WTO for better delivery of development assistance in the SPS-area. One purpose of the facility was to deal with issues arising from difficulties in

implementing the SPS Agreement. Another objective was to enhance the capacity of developing countries to enable them to effectively participate in the development of international standards and to benefit from international trade by meeting international standards. Yet another objective was to improve the capacity of officials and scientists to implement the obligations and take advantage of rights arising from the SPS Agreement. The STDF would support information exchange, development of databases, toolkits and learning materials on trade-related SPS issues, facilitate consultations and better coordination among the core organizations, and support projects in capacity building in individual countries or through regional initiatives, where the role of both private and public sectors was important. Members would have to be involved in the functioning of the Facility. A consultative mechanism would be established with developing country representatives, core organizations, other relevant international and regional organizations, bilateral donors and the private sector. The partner institutions had agreed to establish an information exchange mechanism and identify, select and plan some pilot projects to be funded by the STDF by the end of June. The webpage of the Facility would start functioning shortly and would be the main place for submitting project applications or posting information on pilot projects.

177. The Secretariat indicated that the replies to the technical assistance questionnaires would serve as one source of STDF project ideas. The Secretariat was not aware of donor country responses to the questionnaires submitted by developing countries. The questionnaire had led to general but good replies, however only 30 replies had been received in three years. Sufficient material was available for interested donor countries to pursue bilateral consultations. The Secretariat was working on a list of SPS experts and would also collaborate with the sister organizations. A technical assistance seminar had been organized in November 2002, where tools for assessment of technical assistance had been reported to Members. A problem of coordination remained.

178. The representative of Cuba congratulated the Secretariat for the successful seminar held in Cuba the previous year. She suggested that a training session on drafting of notifications for officials from developing countries be held following the subsequent Committee meeting.

179. The representative of the Dominican Republic said that the seminar in their country had been very useful and timely, not only because of the capacity building benefits but also because it had taken place as the presidential decree creating the national institute for the implementation SPS measures and the enquiry point had entered into force. It was important to achieve internal coordination among agencies.

180. The representative of Indonesia, speaking on behalf of ASEAN, commended the Secretariat's efforts in technical assistance, including in the recent seminar held in Jakarta. ASEAN was facing obstacles both in fulfilling the developed country requirements and in protecting domestic consumers against unsafe foreign products. Technical cooperation was important to expand market access opportunities for developing country products. The regional seminar was valuable in furthering the understanding of the SPS Agreement and establishing active networking between relevant authorities, the Secretariat, the private sector and IGOs.

181. The representative of Mexico referred to their proposals for promoting the sustainability of technical assistance (G/SPS/GEN/382). Although developing countries received considerable amount of technical assistance, this was mainly in the form of seminars and focused on training individuals rather than building institutions. This resulted in the loss of acquired knowledge due to high turnover in personnel. It was important that technical assistance activities had a follow-up component and a multiplier effect, which would in the long-run cut down the need for technical assistance.

182. The representative of the European Communities reported on the Caribbean Agriculture and Fisheries Programme, which had started in 1998 and was to be completed in April 2004. 22.2 million euros had been allocated to the project with nine sub-components, from which 15 CARIFORUM countries benefited. It aimed at strengthening the economies of CARIFORUM members by

consolidating and enhancing the contribution of the agriculture and fisheries sector through market-led development of sustainable regional initiatives in areas such as diversification and sectorial support services, with particular emphasis on the private sector.

183. The representative of Japan reported that Japan had held a seminar in Malaysia in August 2002, on capacity building for agriculture and SPS, with a particular focus on risk analysis. A similar seminar was planned for the current year in the Philippines. Also a capacity building seminar for ASEAN and APEC members was held in Tokyo in February.

184. The representative of the Codex Commission stated that in an effort to assist the participation of developing countries and countries in transition to participate in Codex activities, the Commission had launched a trust fund during the extraordinary 25th session of the Commission held in Geneva in February 2003. Work was underway to revise and complete the criteria for selection of beneficiaries, which would be taken up at the 26th session of the Commission to be held in Rome in July. The first call for applications would then begin.

185. The representative of the OIE drew attention to the list of seminars and workshops organized by the OIE in 2002 and planned for 2003 (G/SPS/GEN/380). The OIE expected that the STDF would lead to a more coherent presentation of activities by different organizations and help avoid duplication.

186. The representative of OIRSA provided an update on the activities carried out by OIRSA on behalf of its members in Central America (G/SPS/GEN/395). These included mediation activities in a dispute between Honduras and Costa Rica; the completion of the second cycle of the Master's degree in technology and sanitary and phytosanitary measures; and a seminar in Nicaragua on the challenges and opportunities for the regional agro-food sector in the framework of the free trade agreement among Central American countries and the United States.

187. The representative of IICA reported that their actions aimed at implementing the SPS Agreement focused on three areas: enhancing participation and effectiveness of countries of the Americas in the SPS Committee and in the activities of the three sister organizations; strengthening national agricultural health and food safety services; and providing technical workshops (G/SPS/GEN/376) This was the second SPS Committee meeting where the participation of 61 experts from 31 capitals from the Americas was possible through a collaborative effort between IICA and the USDA. Other IICA activities in the Americas included (i) a proposal to create the Caribbean Agricultural Health and Food Safety Agency; (ii) collaboration on the European Union funded project on strengthening agricultural quarantine services in the Caribbean; (iii) serving as the Technical Secretariat at a meeting of the Inter-American Group for Coordination on Plant Protection held in Bogota, Colombia; (iv) assisting in preparation of national animal disease emergency preparedness plans in the Caribbean; and (v) workshops on the poultry sector in the Caribbean with contributions from Canadian and US agencies and on HACCP, with the support of the World Bank's Global Development Learning Network (GDLN).

188. The representatives of Antigua and Barbuda, Argentina, Belize, Bolivia, Chile, Colombia, Costa Rica, Dominica, Ecuador, Jamaica, Uruguay, and Guatemala, on behalf of Central American countries, commended IICA's important WTO-related technical cooperation work and also expressed their appreciation for IICA's assistance in the participation of representative from the Latin American and Caribbean region in the SPS Committee meeting.

VII. MONITORING THE USE OF INTERNATIONAL STANDARDS

189. The Chairperson said that in accordance with the agreed procedures in document G/SPS/11 on the Procedure to Monitor the Process of International Harmonization, Members were to submit, at least 30 days in advance of each regular meeting, examples of what they considered to be problems

with significant trade impact which they believed were related to the use or non-use of relevant international standards, guidelines or recommendations. These were to be compiled into a provisional list and circulated by the Secretariat. No Member had submitted new issues for consideration at this meeting. The Secretariat reminded the Committee that the Secretariat would draft a short annual report on the monitoring procedure for the Committee's consideration at the subsequent meeting.

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

190. Under this agenda item observer organizations were invited to briefly report on any activities that were relevant to the work of the Committee. The invitation extended as well to the ad hoc observers participating in the meeting.

191. The representative of the Codex Alimentarius Commission highlighted that most of the information on their activities was available on the web. The 25th Session of the Commission had considered the *Joint FAO/WHO Evaluation of Codex Alimentarius and Other FAO and WHO work on Food Standards*, and he invited Members to comment on Circular Letter (CL 2003/8-CAC), which would be considered at the 26th Regular Session of the Commission in Rome.

192. The representative of Chile noted that the Extraordinary session of the Codex Alimentarius Commission held in February had addressed two items of relevance to discussions in the Committee. The first was related to the Trust Fund for participation in Codex activities, which was linked to S&D discussions in the Committee. He underlined the importance of information exchange between SPS delegates and Codex Contact Points regarding increased participation in the Codex. The other relevant issue was the evaluation of Codex. The Commission had not been able to examine in any detail the 42 recommendations submitted by experts. Given the important issues under discussion, such as the creation of a new standards committee, it was important to participate and to know that comments could be submitted in writing. He also drew attention to the meeting of the Codex Committee on General Principles, which was addressing issues relevant to the work of the SPS Committee such as risk analysis, including the use of precaution, and traceability.

193. The representative of Thailand stated that his country faced serious problems in those areas where international standards did not exist, and particularly for some on animal drug substances. Thailand supported Codex efforts to provide as early as possible solid, science-based recommendations on risk management options for compounds with no Acceptable Daily Intake (ADI) and/or Maximum Residue Levels (MRLs), in particular the operational definition of zero tolerance in the Codex system, and the collaborative efforts among countries for additional testing and/or development of methods of analysis which would be suitable for routine enforcement by Members.

194. The representative of Brazil shared the views expressed by Chile that many items of interest to the WTO such as the reform of Codex, traceability and precaution would be considered by the Codex Commission. The Trust Fund to allow for increased participation of developing countries was commendable. With the proliferation of initiatives and meetings, it was difficult even for developed countries to follow all developments. He suggested that the subject of how to best enhance internal coordination within governments to enhance participation in meetings of standard setting organizations be covered in a future SPS seminar.

195. The representative of the OIE reported that a coordination meeting of the Tripartite Committee (OIE, FAO, WHO) had taken place in Paris in February. The Committee was overseeing several combined task forces including one on the Global Early Warning and Response System and others on the progressive control of FMD and other transboundary animal diseases. A working group had also been set up to examine animal health information issues. An agreement between the OIE and the WHO had been finalised and should be endorsed by the OIE International Committee in May and by the World Health Assembly in 2004.

196. Two new areas of work for the OIE were animal welfare and food safety. On animal welfare, the following areas of priority work were being addressed through *ad hoc* groups: land and sea animal transportation, humane slaughter and killing for disease control purposes. The OIE was also organising a global conference on animal welfare in Paris in February 2004. On food safety, the OIE was working with Codex to harmonize the two organisations' standards relating to food safety to the extent possible, to avoid gaps and duplication. Both organisations were also cooperating on a review of OIE Code chapters on tuberculosis and brucellosis to ensure that food safety issues were correctly addressed.

197. On request from developing countries, in February 2003, OIE had organized an *ad hoc* group on the role of private veterinarians and para-professionals in the provision of animal health services with representatives from Africa, Asia, South America and Europe and with the President of the World Veterinary Association. The meeting made recommendations on how the professional groups (with paraprofessionals working under the responsibility of veterinarians) might be incorporated into the activities of veterinary services of Member Countries and for making improvements to the OIE Animal Health Code. This report would be submitted to the OIE Code Commission before circulation for comment. In 2003, the General Session of the OIE would discuss proposed revised standards for the evaluation of veterinary services, notification of diseases, FMD (revised chapter to incorporate infection as well as presence of disease, tests to distinguish between vaccinated and infected animals), BSE and scrapie, classical swine fever and avian influenza. The OIE was also developing a Code chapter on the general principles of surveillance. In the second half of the year, the OIE would publish a handbook on import risk analysis that would cover both qualitative and quantitative risk analysis and would be a valuable tool for all member countries.

198. The representative of Canada stated that it fully supported the remark by the United States from the previous meeting about the need to increase the funding for the IPPC. There had been increased allocation to IPPC for the coming fiscal year, but a further increase would be necessary to fulfil the medium term plan. He sought support of other organizations in securing funding. The representatives of the European Communities, New Zealand, Australia, China and Brazil supported Canada's statement.

IX. OBSERVERS – REQUESTS FOR OBSERVER STATUS

199. The Committee decided to invite the ad hoc observers to participate in the subsequent meeting of the Committee.

200. The Committee had outstanding requests for observer status from the Office International de la Vigne et du Vin (OIV), from the Asian and Pacific Coconut Community (APCC), and from the Convention on Biodiversity (CBD). The representative of the European Communities supported all candidatures. The representative of Jordan stated their preference to postpone any decision until the pending issue of Observer status was resolved at the General Council level. No decision was taken on the outstanding requests.

201. The representative of Canada suggested that the secretariat of the Cartagena Protocol be invited to provide a briefing at an informal session of the SPS Committee on the scope, objectives, operation and prospects for implementation of the Protocol, which were relevant to the SPS Agreement especially in the phytosanitary area and which several countries had either already ratified or were in the midst of deciding. The representative of New Zealand supported Canada's proposal but hoped that the presentations could be extended to other areas covered by the CBD, such as alien invasive species, which were also relevant for the SPS Committee. The representatives of Australia, and the United States also supported the proposal, and the latter suggested that the presentation on the Cartagena Protocol could be the first in a series of presentation sessions. The secretariat recalled that a similar briefing had taken place a few years earlier when the CBD secretariat had been invited to

make a presentation on the negotiations of the Cartagena Protocol. The Committee accepted the Canadian proposal ad referendum.

X. ELECTION OF THE CHAIRPERSON

202. The Chairperson stated that the Chairman of the Council for Trade in Goods had carried out informal consultations on a slate of names for appointment as chairpersons to the subsidiary bodies of the Council for Trade in Goods in accordance with the established Guidelines for Appointment of Officers to WTO bodies. On the basis of the understandings reached, the Committee elected Mr. Paul Martin (Canada) as Chairperson of the Committee by acclamation, to take over at the conclusion of the session in progress. A number of delegations congratulated the new Chairperson and expressed their appreciation for the outgoing Chairperson, who also thanked the Members for their cooperation and the Secretariat for their assistance and guidance.

XI. OTHER BUSINESS

Slovenia - Croatian restrictions on pork imports

203. The representative of Slovenia drew attention to the measure undertaken by the Croatian authorities to limit the import of pork meat and products. In the beginning of March, decrees had been issued by the Veterinary Administration of the Croatian Ministry of Agriculture, shortening the validity of veterinary import permits from six to three months. In some of the cases, certificates had been withdrawn with an immediate effect. The reason given for this measure was market disturbances due to oversupply of meat on the Croatian market. Slovenia had serious concern with regards to the unusual protective measure. The measure had not been notified through the WTO and was in breach of the WTO Agreements on SPS, Agriculture and Import Licensing Procedures. He asked that Croatia provide an explanation of the measure.

204. The representative of Croatia asked for a written version of the statement for transmission to his capital. He was informed by his authorities that Croatia had not adopted or implemented any measures to restrict imports of pork meat and products and was fully observing the SPS Agreement. Croatia had begun to develop, as of January, a computerized integrated system for border crossing veterinary control, that required adjustments to the procedures for application and issuance of veterinary approvals, which now needed to contain the tariff line description of the product and other necessary data. An important element of the new simplified system was that the period for issuance of approvals had been shortened from 30 or 60 days to only 15 days, which was a trade facilitation measure through simplified administrative procedures. He was certain that bilateral discussions between competent SPS authorities would clarify the situation.

Hungary - Turkish ban on live cattle and beef

205. The representative of Hungary referred to the on-going restriction on imports of live cattle and beef maintained by Turkey since 1996. The policy objective of the Turkish measure was to prevent the spread of FMD and BSE disease, however, according to Article 2.2 of the SPS Agreement a Member needed to ensure that any sanitary measure be applied only to the extent necessary to protect human and animal health and be based on scientific principles. Turkey applied the measure to countries, such as Hungary, known to be free of the FMD and BSE. According to the OIE, Hungary had been free from FMD for nearly 20 years and had pursued FMD control policies which had made vaccination redundant. Hungarian live cattle and beef was also free from BSE. Hungary had questioned this measure several times bilaterally and in the SPS Committee. However, the Turkish authorities had not provided any explanation or risk assessment regarding the ban on importation of live cattle and beef from FMD and BSE free countries.

206. The representative of Turkey replied that many countries had imposed import restrictions or bans on live animals and animal products originating from some European countries due to BSE and FMD to protect their public health and livestock. Turkey had simply taken the same measures based on available information and to satisfy the widespread public concern over BSE. His delegation would bring the request by Hungary to the attention of the competent authorities for consideration.

Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) - Update on FMD situation in Chinese Taipei

207. The representative of Chinese Taipei provided an update on their FMD eradication programme (G/SPS/GEN/402). Since the reporting of an FMD case in pigs in 1997 and recurrence in 1999 in ruminants, a three-stage eradication programme had been followed. No FMD case had been reported for more than two years, and Chinese Taipei hoped to soon reach FMD free status.

Mexico - Cantaloupe exports to the United States

208. The representative of Mexico stated that there was no scientific justification for the US ban on cantaloupe imports from Mexico, and requested that the United States facilitate the FDA certification process.

209. The representative of the United States stated that in October 2002, the FDA had invoked a countrywide detention without physical examination import alert applicable to all cantaloupes from Mexico. As reported in November, the measure was taken after a series of food-born illnesses in the United States over the proceeding three years, were traced back to cantaloupes from several states in Mexico. Prior to the FDA countrywide ban, FDA sampling and analysis of Mexican cantaloupes had confirmed the presence of salmonella in significant numbers of consignments. In addition, inspections in Mexican farms conducted by the FDA in cooperation with the Mexican authorities had revealed certain agricultural practices that had likely contributed to the salmonella problem. Prior to the countrywide detention, the agency had taken detention actions only against individual producers found by FDA to have shipped contaminated products. The FDA had also informed the Mexican government of the emerging problem and had worked closely with Mexican authorities in an attempt to eliminate the cause of the contamination. The approach followed was consistent with FDA's normal practice of taking initial enforcement actions only against individual producers rather than taking action on a countrywide or product-wide basis. However, despite the efforts of the Mexican government and producers to address the problem and limit its impact, an effective long-lasting solution to the contamination problem had not been developed by Mexico. Noting the significant public health risk as the cantaloupe season approached in autumn 2002, FDA had been compelled to take the countrywide action to prevent all Mexican cantaloupes from entering the United States.

210. The United States was aware of the significant impact the countrywide action had on Mexican cantaloupe producers and was anxious to resolve the situation as quickly as possible. They were prepared to rely upon preventive measures and processes established by the Mexican government in the cantaloupe industry that were intended to guarantee the safety and sanitation of cantaloupes produced in Mexico for exportation to the United States. Once effective systems to prevent or significantly mitigate the problem were developed and put into place, the FDA could consider revising the countrywide detention status for Mexican cantaloupes. As an interim arrangement, the FDA had advised Mexican cantaloupe producers and US importers to work closely with Mexican officials in order to develop appropriate information and data submissions that would facilitate the removal of producers from detention on a case-by-case basis. The FDA had also reviewed the Mexican government's guidance to assist the cantaloupe industry in establishing compliance with US laws and had offered comments so that submissions contained appropriate information and could be reviewed quickly. In addition, FDA experts had travelled to Mexico over the preceding several months and were planning to visit Mexico again in the near future to assist cantaloupe producers in addressing the issue. To date, FDA had received submissions from eight cantaloupe producers in

Mexico describing their on-farm practices intended to prevent product contamination. FDA was reviewing the submissions and working closely with Mexican authorities to identify and address any remaining deficiencies in the on-farm practices with the aim of enabling cantaloupes from these producers to enter the US market as quickly as possible. Two producers had provided documentation demonstrating their ability to satisfy safety and sanitation requirements for cantaloupes and those two firms were eligible to export to the United States. The previous week FDA and Mexican officials had conducted a telephone conference with several producers to clarify remaining issues. The United States was committed to continue to work with the government of Mexico and cantaloupe producers to resolve the problem as soon as possible.

Brazil - EC restrictions on fruit and fruit juices

211. The representative of Brazil reported that progress had been achieved on the matter during a meeting held in Brussels and they looked forward to receiving studies from the European Communities that served as the basis for the new European regulation setting up MRLs for dimethoate.

XII. DATE AND AGENDA OF NEXT MEETING

212. The next regular meeting of the SPS Committee was scheduled for 24-25 June 2003. The Committee agreed on the following tentative agenda for the 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
       - Information on resolution of issues in G/SPS/GEN/204/Rev.3
   - (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
4. Equivalence – Article 4
   - (a) Consideration of specific provisions of the Decision
   - (b) Information from Members on their experiences
   - (c) Information from relevant observer organizations
5. Adaptation to regional conditions – Article 6
6. Technical assistance and cooperation
7. Monitoring of the use of international standards
   - (a) Annual report on the monitoring procedure
8. Matters of interest arising from the work of observer organizations
9. Observers - Requests for observer status
10. Other business
11. Date and agenda of next meeting

213. The following deadlines are relevant:

- for identifying new issues for consideration under the monitoring procedure: **23 May 2003**
- for requesting that items be put on the agenda: **12 June 2003**

- for the distribution of the airgram: **13 June 2003**

214. The Secretariat said that the next session of the Committee had been scheduled to take place immediately before the Codex Alimentarius Commission session in Rome with the hope that it would make it easier for capital-based food safety experts to attend both session.

215. The Committee expressed its appreciation for the work of João Magalhães, who would no longer work directly on SPS issues.