WORLD TRADE ORGANIZATION

RESTRICTED

G/SPS/R/30
4 September 2003

(03-4612)

Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON 24-25 JUNE 2003

Note by the Secretariat[1]

I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its twenty-seventh meeting on 24-25 June 2003. The Chairman of the Committee Mr Paul Martin (Canada) opened the meeting. The agenda proposed in WTO/AIR/2119 was adopted with amendments.

II. IMPLEMENTATION OF THE AGREEMENT

(a) Information from Members

(i) Activities of Members

Avian influenza situation in the European Communities

2. The representative of the European Communities announced that with regard to the avian influenza epidemic in Belgium, Germany and the Netherlands 18 holdings had been infected in Belgium, one in Germany and 255 in the Netherlands. Eighty-eight people had been infected and one had died. Since the beginning of May 2003, no new outbreaks had been recorded and the European Communities therefore considered the epidemic to be under control. Accordingly, the Standing Committee on the Food Chain and Animal Health had agreed to re-authorize exports of live poultry and hatching eggs from Dutch provinces which had not experienced any outbreaks. For Belgium, the ban had been lifted, with the established surveillance zones as the only exception. In Germany, all safeguard measures had been lifted.

EC import procedures for live animals and animals products

3. The representative of the European Communities provided information about the on-line availability of a manual called "General Guidance to Third Country National Authorities on the Procedures to be Followed on the Import of Animals and Animal Products from Third Countries". The guidelines were aimed at providing increased transparency and would lead to a facilitation of export conditions, particularly for developing countries. Special procedures could, however, be used where veterinary agreements existed.

On-line availability of the EC rapid alert system

4. The representative of the European Communities reported that a network of EC authorities would provide weekly reports concerning potential health risks, including information on the type of

[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.

products involved, what kind of problem had occurred and which EC member States were affected. This process would increase consumer safety and facilitate notifying third countries of the problem.

5. In response to a concern raised by Chile, the representative of the European Communities stressed that the procedures for collecting information were the same for both domestically produced products as for imported products, but that the procedures were not the same in all EC member States. He noted that modifications were being prepared to address some weaknesses in the system.

Bovine spongiform encephalopathy (BSE) in Canada

6. The representative of Canada reported that his country had announced a confirmed case of BSE in a single Canadian cow on 20 May 2003. The subsequent investigation suggested that it was an isolated case. Canada had made the investigation as transparent as possible and had conducted a trace back to where the cow had been in its life and a trace forward for its offspring, as well as an investigation of what feed the cow had been consuming and the feed sources the cow may have been exposed to during its life. Over 2000 animal samples had been tested and they were all negative. Canada was therefore convinced that its food supply remained safe. An international expert review team had praised the effectiveness of the investigation and validated Canada's findings. Canada hoped to soon identify the source of the BSE. The Office International des Epizooties (OIE) had not formed a view concerning Canada's BSE-status. Canada requested Members who had suspended import of Canadian products in a manner which was not in accordance with OIE guidelines to lift these measures, and particularly those on low-risk products.

7. The representative of the European Communities welcomed the high level of transparency of the Canadian investigation. The European Communities regarded its current measures as adequate and no ban would be imposed on imports from Canada. The European Communities also offered its assistance and encouraged the OIE to revise its classification system.

FMD situation in Argentina

8. The representative of Argentina reported that progress had been made since the launch of a series of vaccination campaigns against foot-and-mouth disease (FMD) in 2002. The fifth campaign ended on 30 May 2003. 70,000 samples had been taken that confirmed that FMD was clinically absent in Argentina. Argentina had presented an annual report to the OIE, with all necessary information. The part of the country lying north of the 42nd parallel had been granted FMD-free status without vaccination as long as Argentina continued to provide documentation.

Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei) FMD-free status with vaccination

9. The representative of Chinese Taipei indicated that no further cases of FMD had been reported since 2001, and therefore on 20 May 2003, the OIE had granted Chinese Taipei the status of FMD-free with vaccination. Chinese Taipei, however, recognized the need to continue coordinated efforts in the region to combat FMD.

FMD-free status of the Chiquitania Region, Bolivia

10. The representative of Bolivia reported that the OIE recognized the Chiquitania Region as FMD-free with vaccination during its meeting of May 2003.

FMD situation in Peru

11. The representative of Peru stated that his country had been recognised as FMD-free after its implementation of an eradication plan and a revision of its detection system. Over 93 per cent of the area of the country, which contained 83 per cent of the bovine population, was now FMD-free without vaccination.

US import requirements for solid wood packing material

12. The representative of the United States indicated that his country would adopt the standard on wood packaging approved by the International Plant Protection Convention (IPPC). Accordingly, wood packing would have to undergo 30 minutes heat treatment at a temperature of at least 56C (G/SPS/N/USA/705). Comments on the implementation scheme could be submitted until 21 July 2003. The new requirements would apply to wood packing material in all shipments, including shipments of non-agricultural products. The proposal had been developed in close cooperation with Canada and Mexico, through the North American Plant Protection Organization (NAPPO).

13. The representative of the European Communities announced that the European Communities was committed to apply the IPPC standard, which he hoped would facilitate trade. The representative of Canada announced that her country would also implement the IPPC standard as soon as possible. The date for implementation had been postponed from 1 June 2003 until 2 January 2004, as notified to the WTO (G/SPS/N/CAN/163).

14. The representative of China indicated that his country would submit comments to the United States questioning the appropriateness of the chosen requirements because of some technical problems. The representative of Guyana noted that her government was in consultations with the private sector regarding the implementation of the proposed Canadian measure.

15. In response to a question raised by the representative of Jamaica, the representative of the IPPC stated that the mark to be put on the wood material after it had been treated had been approved by the IPPC and would circulated to all IPPC contact points. Due to concerns about the phasing out of methyl bromide as a result of the Montreal Protocol, the standard allowed for other treatments such as heat treatment. The IPPC was in the process of considering other alternatives. Concerning the standard's significance for combating certain pests, this issue had been referred to the scientific committee for a response before the end of the year.

US Public Health Security and Bioterrorism Act ("The Bioterrorism Act")

16. The representative of the United States recalled that, with the exception of farms and restaurants, the Bioterrorism Act would effect commercial entities who manufactured, processed, packed, transported, distributed, received, held or imported foodstuffs. Four regulations on registration, prior notice, establishment and maintenance of records, and administrative detention were about to be finalized. The closing date for comments on the draft regulations on registration and prior notice was 4 April 2003. For the two other draft regulations, the closing date for comments was 8 July 2003.

17. The representative of China expressed understanding for the objectives of the Bioterrorism Act but emphasized that it should not lead to a restriction of trade. China had already expressed its concerns in submissions to the US Food and Drug Administration (FDA) before the April deadline. However, China had not received a response to its submissions and hoped that its concerns would be taken seriously. China also submit comments on the two new draft regulations before the deadline.

18. The representative of Ecuador expressed concern for the implications of the Bioterrorism Act on developing countries and its compatibility with Articles 2 and 5 of the SPS Agreement. The law imposed considerable restrictions on trade, and the definition of foodstuff was unclear. Ecuador also sought a prolongation of the time-period for registration and notification. There were furthermore some exceptional cases, such as air transport, which were not considered in the Bioterrorism Act.

19. The representative of Venezuela stated that the Bioterrorism Act did not provide a solution for the intended objective, but would rather have adverse effects. Venezuela called for more flexible procedures, especially for Latin American countries.

20. The representatives of Peru and of Chile requested the results of any risk assessments that had been done, and whether the Bioterrorism Act was justified by the risk assessments. Peru also expressed concern whether the Bioterrorism Act was compatible with other legislation and if not, whether it would take precedence. She also asked who would be economically responsible in case of administrative errors. Concerning the 8 July 2003 deadline for comments, she doubted that this would allow sufficient time to consult the private sector.

21. The representative of Bolivia expressed great concern about the implications of the Bioterrorism Act and stated that it would have substantial effects on Bolivia's exports to the United States. The representative of Brazil asked how the United States would implement the concept of "credible evidence" in its risk assessment.

22. The representative of the European Communities expressed appreciation for the information received from the United States and indicated that the European Communities had submitted considerable comments to the Bioterrorism Act itself as well as to the draft regulations. The European Communities welcomed the United States commitment to respond to the submissions. The European Communities was willing to cooperate closely with the United States on this issue, in order to minimize the distortive effects on trade.

23. The representative of Mexico stated that his country had already submitted comments on the draft regulations. He questioned why the Bioterrorism Act itself was not notified in the SPS or the TBT Committee, and why the implementing regulations were not notified to the TBT Committee.

24. The representative of the United States urged Members who had expressed concerns to submit their comments before the 8 July 2003 deadline. He restated the commitment of the United States to respond to the submissions received and announced that the responses would be provided when the regulations had been finalized. One change which had been made as a consequence of the submissions received before the 4 April 2003 deadline was that the FDA and the Bureau of Customs and Border Protection would cooperate in a way which would make it possible in most cases to submit the required information through the already existing customs system. The risk assessments would be made available when the regulations had been finalized and made public. The primary purpose of the Bioterrorism Act was to protect the food supply chain and for that reason it had been natural for the United States to notify the draft regulations on prior notice, records maintenance and administrative detention to the SPS Committee. The draft regulation on registration was, however, notified to the TBT Committee. The final regulations would be made public 60 days before the Bioterrorism Act entered into force on 12 December 2003.

(b) Specific Trade Concerns

(i) New issues

EC restrictions on honey imports

25. The representative of the United States indicated that EC Directive 96-23 required exporting countries to submit a residue plan and if the residue plan did not contain sufficient guarantees of compliance with EC residue limits, the country would not be authorized to export honey to the European Communities. On 22 May 2003, the European Communities had initiated administrative steps to prohibit imports of honey from the United States. The United States considered the EC regime to be far more trade restricted than necessary, especially since the United States had comprehensive control mechanisms, although it did not have identical rules. Furthermore, honey was consumed in very small quantities and should be considered a "low risk" food. The existing rules in the United States were more than adequate to avoid harm to human health.

26. The representatives of China and of Mexico supported the concerns raised by the United States.

27. The representative of the European Communities replied that the European Communities was a net importer of honey and that the measures were not put in place to protect the domestic market but to protect consumers. The request for a residue surveillance plan was a general rule which applied to all products, and a high level of surveillance was needed for honey because it tended to be consumed by children. He noted that the United States had been reminded, in a letter dated February 2003, that the absence of a residue plan would lead to their removal from the list of countries approved for import of honey to the European Communities. The European Communities was, however, willing to examine any residue plan provided by the United States.

Croatia's import measures on live animals and meat products

28. The representative of Hungary expressed serious concern with measures taken by Croatia to ban imports of live animals and meat products. The ban, which was supposedly to provide protection against BSE, had entered into force with immediate effect and was never notified. The ban, however, applied to all meat products, including fish and poultry, as well as live animals. These could only be imported if the exporting country certified that no animal protein had been used as feed. Hungary considered that the ban was a disguised restriction on international trade, in violation of the SPS Agreement, since there was no scientific justification for the measures and since it did not apply to domestic producers. Hungary requested the immediate lifting of the measure.

29. The representative of the European Communities expressed support for Hungary's concerns and characterized the ban as scientifically unfounded and out of proportion. The European Communities had requested information from Croatia, but no reply had been received. The European Communities also requested the immediate lifting of the ban.

30. The representative of Croatia expressed regret about the position of Hungary and the European Communities. Croatia had imposed the measure in order to keep its present status as a BSE-free area and in order to protect its exports of meat products. The measures taken were in accordance with established international rules and with the measures taken by the European Communities. Countries which had provided the necessary information had been exempted from the ban (e.g., Bulgaria and Romania). Croatian authorities had undertaken telephone consultations with the Hungarian authorities and had requested Hungary to submit the necessary information.

31. The representative of Hungary took note of Croatia's statement but indicated that bilateral contacts did not replace a notification.

EC maximum levels for aflatoxins in maize

32. The representative of Argentina reported that consultations between his authorities and the European Communities had taken place on 2 July 2003 concerning EC Regulation 257/0,2 which imposed new maximum levels for aflatoxins in maize. Argentina considered the new measures to be scientifically unfounded and requested the European Communities to consider less trade restrictive measures and the possibility of special and differential treatment. Argentina also requested that the existing level to be maintained until scientific evidence had been provided.

33. The representative of the European Communities noted that there were considerable health problems with aflatoxins and that it was difficult to establish an appropriate limit. The new regulation would be notified to the Committee before it was applied and interested trading partners would therefore get the possibility to present their concerns and objections. In reply to a question from Egypt, he clarified that the new measure would apply only to maize.

Japan's restrictions on imports of mangoes

34. The representative of Brazil indicated that Brazil had been seeking approval to export mangoes to Japan for 18 years. Japan demanded steam treatment in spite of the satisfactory level of the measures taken by Brazil, Chile and other potential exporters to avoid fruit fly. Japan had, furthermore, continuously demanded more information and had not taken previous scientific studies into account. Although Japan had offered technical assistance, this had not facilitated the process. Brazil considered that Japan's measures were inconsistent with the provisions of the SPS Agreement on equivalence, regionalization and technical cooperation.

35. The representative of Japan stated that Brazil had requested technical assistance in 1986 in order to fulfil Japan's requirements. However, Brazil had stopped the technical assistance in 1990 because it wished to develop its own technique based on hot-water treatment. This design was launched in 1998. Both countries agreed on this and the final data were submitted in 2001. Supplementary information was needed, however, before Japan could approve the measures and the necessary technical studies could be concluded quickly if the data were available.

(ii) Issues previously raised

Venezuela's restrictions on import of potatoes, garlic and onions

36. The representative of Argentina recalled that at the last meeting, he had informed Members that Venezuela had carried out a mission to Argentina. Argentina still had not received the final rapport and urged Venezuela to inform Argentina about the results of the visit so that trade could be initiated.

37. The representative of the United States shared Argentina's concerns that Venezuela required sanitary import permits without any scientific justification or risk assessment. Consultations on Venezuela's import licence measures had been held on 26 November 2002, in the context of Article 5.8 of the SPS Agreement. The United States had now received a reply on its concerns from Venezuela. The representative of Canada associated her country with the concerns raised by the United States. The problems concerning delays or denial of import permits did not have any legitimate justification.

38. The representative of Venezuela explained that the situation concerning Argentina differed from that concerning the United States and Canada. The United States had sent a questionnaire regarding its concerns to Venezuela, and he suggested that Canada do the same. With respect to Argentina, the representative of Venezuela stated that imports from Argentina were not prohibited but subject to certain requirements. Venezuela was free of the diseases which had occurred in Argentina in 1997, and the entry of these diseases would result in serious economic injury to Venezuela. Venezuela had, furthermore, undertaken a risk assessment which provided the necessary justifications. The results of this assessment would be communicated to the Argentine health services as a part of the mutually agreed work plan.

China's restrictions on products of EC origin

39. The representative of the European Communities provided information on a number of restrictions which he had raised at previous meetings. The Chinese embargo on products from the Netherlands had been lifted, and the European Communities believed this issue was now resolved. China had also notified its Decree 31 on aquatic products, and had provided a comment period. The European Communities had also been actively trying to establish the exact content of the Chinese requirements for obtaining import certifications for animal products – a requirement related to FMD and BSE. China also required monitoring of residues and copies of reports. Regarding wood packing material, the European Communities had now adopted the IPPC standard and China had promised to do the same. On cosmetics, China had presented a list of prohibited products and that was considered a progress by the European Communities. The European Communities, however, emphasized that the new rules would have to be made part of the legislation. Furthermore, China had decided to ban all imports of poultry from Germany even though only one case of avian influenza was reported in Germany. This was not in accordance with the measures recommended by the OIE against avian influenza. A joint European Communities – China technical working group had been established, and the European Communities expected good results from the group.

40. The representative of China reaffirmed that the ban on Dutch products had been lifted after an inspection visit and the conclusion of a risk assessment. Concerning UK meat products, China was considering bilateral meetings with UK officials. China had earlier commented regard wood packing materials, and was committed to follow the IPPC standard if this standard were finally approved. Regarding cosmetics, China was willing to review its regulations and welcomed continued dialogue. On the avian influenza issue, China was awaiting a revised position by the OIE.

41. The representative of the OIE indicated that the current code contained recommendations for import restrictions relating to avian influenza, but this chapter was under revision. The revised document would address all types of avian influenza and infections, on the basis of experience.

Mexico's restrictions on Austrian products

42. The representative of the European Communities referred to the Mexican ban on Austrian products due to FMD. Austria was recognized as FMD free and no outbreaks had been reported since 1981. Bilateral consultations had been made and both parties had agreed that accelerated dialogue was necessary. The representative of Mexico confirmed that his country had been able to identify the problems and expected that the issue would soon be resolved.

Indonesia's restrictions on imports of dairy products because of FMD

43. The representative of Argentina recalled that he had raised a question on Indonesia's restrictions on Argentine dairy products at the last meeting, and reported that good progress had been made toward the resolution of the problem. The representative of Indonesia confirmed that the bilateral consultations had led to an agreement to send Indonesian inspectors to Argentina.

Colombia's restrictions on imports of bovine meat because of FMD

44. The representative of Argentina reported that progress had been made and that inspections of Argentine meat plants by Colombian officials were being planned. The representative of Colombia noted that once the necessary information was provided by Argentina, his authorities would carry out the necessary missions. The good progress in the case of bovine exports from Argentina to Colombia was similar to the progress made on the issue of flower exports from Colombia to Argentina.

Trinidad and Tobago's restriction on imports of pork sausages and other pork products

45. The representative of Argentina indicated that her authorities had provided to Trinidad and Tobago the information agreed upon after the last Committee meeting. CARICOM had committed itself to send a technical mission to Argentina with the aim of accepting Argentine exports.

46. The representative of Trinidad and Tobago noted that following consideration of the information submitted by Argentina, CARICOM had decided to send a risk assessment mission to Argentina. Argentina had accepted this proposal and the mission was expected to take place within the next two months.

EC regulation on animal by-products

47. The representative of China stated that China had submitted comments on a new EC regulation on animal by-products, but had not received any reply from the European Communities. He observed that China had not had the possibility to comment on the EC regulation when it was first notified, since China had not been a Member of the WTO in 2002. He also noted that most Chinese exporters were small and medium enterprises, and that they would need a transitional period of two years to adjust to the new EC regulation.

48. The representative of the United States said that the concerns he had raised at the last SPS-Committee meeting regarding the EC regulation were still valid.

49. The representative of the European Communities reported that this issue had been discussed by the EC Trade Commissioner in China. He confirmed that the comments made by China would be carefully examined and that China would receive a response. The European Communities would take a flexible view on transitional measures for third countries.

Australia's restrictions on durian imports

50. The representative of Thailand recalled that he had raised the issue of Australian restrictions on durian fruit for the first time in 2000. Thailand was concerned with Australia's use of destructive sampling methods, notified in G/SPS/N/AUS/83, and believed that there were other ways to meet Australia's appropriate level of protection. Thailand furthermore believed that the Australian requirements were not consistent with the obligations of Article 5.6 of the SPS Agreement. The representative of the Philippines, speaking on behalf of ASEAN, expressed support for the statement made by Thailand.

51. The representative of Australia replied that Australia had stipulated the feasibility of using internationally accepted measures in the final import risk analysis Destructive fruit cutting was one such internationally accepted phytosanitary measure which was used by many countries. Australia had already indicated that it was prepared to consider alternative ways to address the quarantine risks associated with Thai durian fruit.

Australia's restrictions on prawn imports

52. The representative of Thailand noted that the issue of Australia's import restriction on prawn products had been raised for the first time in March 2001. The interim measure was still in place and it appeared unlikely that the import risk analysis would be concluded within a short period of time. Thailand appreciated the bilateral efforts to improve trading conditions, but urged that the interim measure be lifted. The representative of the Philippines, speaking on behalf of ASEAN, supported for the statement made by Thailand. The representative of the European Communities indicated that his authorities also shared the concerns presented by Thailand.

53. The representative of Australia reported that her country was making good progress in its import risk analysis, and a revised draft report was underway. The analysis had been very complex and had been characterized by a lack of information, since Thailand had failed to provide new information on white spot syndrome virus. The interim measures had been necessary to protect Australia and was only targeted at uncooked prawns.

Australia's restrictions on infectious bursal disease (IBD) in chicken products

54. The representative of Thailand recalled that the issue of Australian import restrictions on chicken meat had been raised the first time in September 1998. Thailand had submitted scientific information to Australia, but this had not resulted in any apparent progress, and Thailand requested Australia to lift the requirements of heat treatment for IBD virus.

55. The representative of Australia noted that cooked chicken meat from Thailand was allowed into Australia if requirements were fulfilled. She maintained that Australia's measures were appropriate and in accordance with scientific findings.

56. The representative of the OIE indicated that they had considered the issue in January 2002 and that OIE had requested more and new scientific information, but no new information had yet been submitted to OIE.

Japan's restrictions on importation of sugar cane top because of FMD

57. The representative of Indonesia complained that Japan continued to ban imports of sugar cane top from Indonesia, and the Indonesian industry had collapsed because of the ban. Japan had not acknowledged that Indonesia was free from FMD, despite the fact that Indonesia's FMD-free status had been regularly confirmed by the OIE. Although Indonesia welcomed further Japanese missions to Indonesia, Japan needed to specify more clearly the issues of their concern.

58. The representative of Japan replied that technical consultations had been held and that more experts had been dispatched in June 2002 in order to provide Japan with additional scientific information. Further scientific assessments would now be carried out. Japan looked forward to continued consultations.

China's certification requirements for aquatic products

59. The representative of the United States stated that China had failed to notify its certification requirements for aquatic products entering into China. He expressed serious concerns about the consequences of the 30 June 2003 entry into force of the proposed certification, and requested China to postpone further action until the measure had been notified to the WTO and a 60-day comment period had been provided. US authorities were not aware of any scientific rationale for the measures. The United States had presented its concerns to the Chinese authorities but had not received a reply.

60. The representative of China replied that the measures would unify the content and format of existing certificates. His authorities had decided to notify the measures and to provide a 60-day comment period. China did not believe that this measure would pose difficulties for US exports after 1 July 2003.

Japan's official control restrictions

61. The representative of New Zealand recalled that her country had expressed considerable concern with Japan's current "Official Control Restrictions" on plant products, and was pleased to learn that Japan was reviewing its system in order to change it. The representative of the European Communities observed that they had raised similar concerns and hoped that Japan would continue to address these concerns.

62. The representative of the United States indicated that he had been raising similar concerns since 1998. The United States was very disappointed with the discriminatory character of the measures and with Japan's failure to notify its internal regulation, as well as with the general lack of transparency in the Japanese system. The representative of Australia described the measures as being unjustified and unnecessary and expressed support for the statements made by other Members.

63. The representative of Japan replied that bilateral consultations had been conducted and that a meeting group had been established and had held its first meeting. Further examination would, however, be necessary before conclusions could be drawn.

Australia's draft import policy for truss tomatoes from the Netherlands

64. The representative of Australia reported that the draft import policy for truss tomatoes from the Netherlands had been issued a few weeks previously and the documents were now publicly available. She noted that this was a draft measure and that Australia had a responsibility to allow stakeholders to comment. A response to the Netherlands request for market access would follow soon.

65. The representative of the European Communities expressed disappointment with the information provided by Australia, since the draft policy was still open for comments from stakeholders and therefore far from being finalized. The representative of the Philippines, speaking also on behalf of Indonesia and Thailand, supported the views of the European Communities.

EC aflatoxin levels for Brazil nuts

66. The representative of Bolivia informed Members that a bilateral meeting had been held regarding EC aflatoxin levels for Brazil nuts. The meeting had resulted in a favourable outcome and Bolivia should soon receive the required permission. The representative of the European Communities indicated that the procedures for technical assistance were now in place, and he therefore hoped that the issue soon could be regarded as solved.

Turkey's ban on Hungarian live cattle and beef

67. The representative of Turkey said that cattle and beef imports from some EC member States and from Hungary had been temporarily suspended since cattle from these countries had not been vaccinated or achieved immunity against FMD and rinderpest, which existed in Turkey at that time. In the light of new assessments, the ban had been lifted in 1999. However, due to BSE concerns, the import of livestock had again been partly banned.

(c) Consideration of Specific Notifications Received

G/SPS/N/EEC/190 - EC notification on live animals and animal products

68. The representative of Australia stated that the notified measure would affect Australia's alpaca exports to EC member States. Australia had been free from blue tongue for more than a decade, as was recognized by many countries including the United States, Canada, Mexico, New Zealand and Japan. Australia had submitted scientific evidence to the European Communities on several occasions, and requested an update on this issue.

69. The representative of the European Communities clarified that the new notification was not due to a new regulation but merely a result of a simplification exercise, and Australia was not dealt with in this consolidation. He confirmed that the European Communities had received the Australian requests and would respond directly.

G/SPS/N/EEC/198 - EC notification on animal health conditions and certification requirements for live fish

70. The representative of Australia indicated that this new measure could affect Australian carp exports to EC member States. The United Kingdom had rejected live fish from Australia due to concerns about the existence of an unknown carrier state. Australia had suggested prior disinfection as a possible solution and had, furthermore, requested the risk assessment on which the measure was based, but this had not been provided. The representative of Australia noted that this requirement was not in line with OIE standards.

71. The representative of the European Communities replied that the time period for replying to comments had not yet been reached. The European Communities believed that the measures could be considered standard measures and that no risk assessment was necessary. However, EC authorities were ready to discuss this issue bilaterally with interested trading partners.

G/SPS/N/JPN/9 - Japan's notification on uses of living modified organisms and G/SPS/N/KOR/49 - Korea's notification on transboundary movement of living modified organisms

72. The representative of Australia indicated that Japan's notification regarding its proposed draft law on the conservation and sustainable use of living modified organisms and Korea's notification on the transboundary movement of living modified organisms raised a number of concerns. Australia was a major grain exporter and was especially interested in the documents which should accompany shipments. Although Korea had responded to Australia's query, no answer had yet been received from Japan. The representative of the United States said his country was also concerned with how Japan and Korea intended to implement the Cartagena Biosafety Protocol and in particular the documentation requirements.

73. The representative of Japan replied that Japan had ratified the Cartagena Biosafety Protocol on 10 June 2003, and its measures were consistent with agreement. Japan would shortly provide responses to the questions it had received from Australia.

74. The representative of Korea stated that Korea was acting in line with the transparency requirements and they would continue to do so.

G/SPS/N/EEC/196 - EC notification on maximum residue levels in plant and animal products

75. The representative of China indicated that his country was highly concerned with the approach taken by the European Communities on maximum residue levels in plant and animal

products, and had consequently submitted comments on the notification. His country did not believe the new rules where in compliance with the SPS Agreement and requested information on the risk assessment undertaken by the European Communities.

76. The representative of Brazil noted that his country had previously raised similar concerns and arguments. Brazil requested a three-year postponement of the measure. The representative of Chile expressed support for the position taken by China and Brazil and also requested information on the risk analysis and the scientific basis for the maximum residue levels. He also queried whether, for those pesticides where there was no scientific evidence, a precautionary approach would be used.

77. The representative of the European Communities replied that the draft rule replaced and simplified four existing directives. The new rule was scheduled to enter into force on 1 January 2005 and would lead to an harmonization of maximum residue levels in the Community. He noted that the transitional process would be very long and that additional comments could still be made. The European Communities had identified 325 active substances needing re-examination. The objective was to examine these 325 substances in order to update the available information and to set maximum residue level limits since zero level was difficult to achieve. The new rule would not lead to a withdrawal of given authorizations except within the Community territory. Imports from third countries would not be automatically banned, but could be accepted on the basis of maximum residue limits when it could be shown that these limits were sufficient to protect health. The European Communities had a positive list of products for which the industry had to provide information concerning animal, plant and human health. Members and the Codex Alimentarius were invited to submit comments on which levels of residues might be considered as acceptable.

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

78. The Chairman reported that at the informal meeting on transparency, Members had discussed China's analysis of SPS notifications in 2002 (G/SPS/GEN/378) and its proposal for amending the SPS notification procedures (G/SPS/W/131 and Corr.1). The representative of China had indicated that 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 within the allowed 60-day time period. China recalled that their analysis indicated that the comment periods for most of the notifications were less than 60 days. Their proposal to have the 60-day comment period commence from the date of circulation of a notification by the Secretariat would allow for an effective implementation of paragraph 8 of the Recommended Transparency Procedures (G/SPS/7/Rev. 2).

79. The representative of Mexico had indicated that it had also undertaken an analysis of the transparency obligations under the Agreement. Mexico noted that even when a comment period was allowed, Members were often unable to benefit from their rights under the transparency obligations, including: (i) their right to submit the relevant comments; (ii) that the comments be discussed and taken into consideration, and (iii) that the relevant modifications to the proposed regulation be made. Mexico had proposed to continue discussing possible modifications to the recommended transparency procedures and suggested that the evidence from their analysis be taken into consideration in these discussions.

80. A number of Members had indicated that China's proposal would be difficult to implement in practice because of their domestic regulatory procedures. The United States and Australia needed to specify the date of the comment period according to their procedures. In the United States, comments made before or after the specified comment period could not be taken into consideration; however, the United States had the flexibility to increase the comment period , for example to 65 days from the date of notification.

81. The representative of New Zealand had considered that it would not be appropriate for the Secretariat to determine when the comment period begins or ends, as this was a sovereign right of Members. The representative of Japan had suggested that it was inappropriate to consider China's proposal given that the date of circulation of the notification was not a predictable one. The representative of Canada had indicated that their domestic regulatory procedures required a pre-publication and comment period of 75 days which provided the time necessary to submit the notification to the WTO, and that they were not in a position to support the Chinese proposal.

82. Several Members supported the idea of guaranteeing an effective implementation of the 60-day comment period as proposed by China. The representatives of Argentina and Chile had noted that there were other problems with the recommended notification procedures that needed to be further discussed including: (i) procedures to be followed in the case of trade facilitating regulations; (ii) the provision of clear explanations on the deviation from international standards; and (iii) the lack of clarity with respect to the competent standard-setting organizations.

83. The representative of China had also drawn attention to the problems they encountered from having to translate the proposed regulations and suggested that Members notify the proposed draft regulation along with the notification to the Secretariat. The representative of the European Communities had observed that the translation issue was a recurrent problem and that they could offer text in the three official WTO languages but not in Chinese. The Secretariat had noted that this suggestion by China would put an unmanageable translation burden on the Secretariat of what were only draft regulations and not final texts. The Secretariat recalled that when the Committee revised its recommended notification procedures it urged Members possessing an "unofficial" translation to share it with other Members that might be interested. It might be useful to discuss how to create a mechanism to facilitate a Member making an "unofficial" translation of a proposed regulation available to other interested Members.

84. At the informal meeting, the Secretariat had indicated that one important step to reduce delays in the circulation of notifications was to ensure that Members' notification authorities followed the Transparency Handbook. Often the Secretariat received notifications containing incomplete or inaccurate information, i.e., regarding the indication of existence of international standards. Regarding notifications of trade liberalizing measures, the recommended procedures indicated that the comment period may be reduced or eliminated. Furthermore, the Secretariat had noted that it had been about five years since the Committee had last held a special meeting on the operation of national enquiry points. The TBT Committee held these regularly every three years. The Committee might consider holding such a special meeting at the time of the next regular meeting of the SPS Committee for Members to provide 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 might be possible to identify some best practices in this regard to assist Members in reinforcing the functioning of their enquiry points.

85. In discussions of the Chairman's report on the informal meeting, the representative of Malaysia suggested that the 60-day comment period could begin one week after the notification had been submitted to the Secretariat, in order to give the Secretariat time to prepare the document without reducing the actual comment period. Notifying Members should made texts of relevant documents available on their websites. Unofficial translations should also be made available on the website.

86. The representative of Canada clarified that Canada provided a 75-day pre-publication period to receive comments, after which time comments were taken into consideration.

87. The representatives of Mexico and Egypt indicated that China's paper raised important issues, and suggested that the Committee continue to pursue this matter. They also found the proposal from Malaysia to merit further consideration. The representative of Antigua and Barbuda stated that the

Chinese paper was useful since it addressed many problems which smaller developing countries with scarce resources were facing. The representative of China noted that, as a new Member, they had special difficulties to comply with the existing system and that an extension of the comment period would be very helpful in this respect.

88. Several Members, including China, Mexico and Chile, supported the suggestion of holding a special meeting on enquiry points. Concerning the proposal to make draft regulations available on the website, the representative of Chile suggested that this could be initiated by the Secretariat.

89. The Committee requested the Secretariat to organize a special meeting on transparency for national enquiry points in conjunction with the next regular meeting of the Committee.

III. THE SPS AGREEMENT AND DEVELOPING COUNTRIES

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

Chairman's report on the informal meeting

90. The Chairman reported that three issues had been discussed during the informal meeting on 23 June: (i) the Canadian proposal on enhancing transparency on the basis of further elaboration suggested by the Secretariat; (ii) other proposals and suggestions which had been raised in the Committee; and (iii) specific proposals referred to the SPS Committee by the Chairman of the General Council.

91. First, the Committee had considered document G/SPS/W/132 which was a further elaboration of the Canadian proposal (G/SPS/W/127) for enhancing the transparency of special and differential treatment (S&D) within the SPS Agreement. As the Committee had already adopted the Canadian proposal in principle, the discussion mainly focused on some specific amendments to the elaboration of the proposal. A number of delegations had suggested that the Elaboration, particularly in Step 5, should specify that the "notifying Member" referred to a developed Member and the "exporting Member" to a developing Member. However, other delegations were of the view that the delineation as it stood was appropriate and recognized that developing countries should offer special and differential treatment to each other. It was also suggested that Step 6 include a broader reference to possible solutions to concerns raised by the exporting Member, and in particular to technical assistance.

92. Some delegations had also expressed concern that the exporting Member might realize difficulties with a measure only after its entry into force. Therefore, they had emphasized the importance of the applicability of the elaborated steps after the end of the comment period and even after a measure entered into force. A number of delegations had also underlined the importance of having well-functioning enquiry points to be able to identify potential difficulties with notified measures.

93. The Committee had asked the Secretariat to revise the elaboration of the Canadian proposal for further consideration during its regular meeting.

94. With regard to other proposals and suggestions related to implementation difficulties and special and differential treatment, Egypt had reiterated its proposal for a "pre-notification" mechanism according to which developed countries would give advance notice of a draft notification, following which consultations could be held with interested developed countries. Egypt had noted that this would be in line with the suggestions to extend the comment period following a notification.

95. In considering the specific proposals relating to special and differential treatment referred to the SPS Committee by the Chairman of the General Council (Job(03)100), the Committee had first discussed the work plan proposed by the Chairman in document G/SPS/W/135. Several delegations had suggested that the work programme be finalized by the end of the year, instead of being carried over to 2004, considering that the proposals were already familiar to Members from earlier discussions. The Committee had informally agreed to consider a revised work plan with a view to adopting it during its regular meeting.

96. The specific proposals, which were presented in the Attachment to the proposed work plan, had been considered under three groupings: those relating to technical assistance (proposals A-E), to Article 10.1 (proposals F-H) and to Article 10.4 (I-K). India, on behalf of a group of developing countries, had introduced proposals A, F, and K, which had the objective of making the S&D provisions more operational and of helping developing countries comply with importing countries' SPS measures. The representative of the European Communities had stated that their comments to the General Council in November 2002 regarding these proposals remained valid and he had also indicated the European Communities' readiness to accept Proposal F despite some reservations. A number of delegations had stressed that legitimate SPS measures necessary for health protection should not be withdrawn simply because they might be difficult for some trading partners to meet.

97. While recognizing the importance of needs-based technical assistance, some delegations had disagreed with the suggested language to make technical assistance mandatory. In addition, a number of delegations had suggested that S&D and technical assistance could be provided by some developing countries to other developing countries. One delegation was concerned that the provision of S&D might result in discrimination among developing countries.

98. Members had been asked to submit their comments on these proposals as well as other S&D proposals under consideration by the Committee to the Secretariat, in writing, before the end of September 2003. The Chairman requested, in particular, suggestions on how to address differences in views on the various proposals. The written comments would be considered by the Committee at an informal meeting.

Further consideration of the proposed elaboration of Canada's proposal

99. On the basis of comments and suggestions made during the informal meeting, the Secretariat prepared a revision of the proposed elaboration of Canada's proposal, which was further discussed by the Committee at its regular session.

100. In commenting on the revised proposal, the representative of Malaysia stressed that S&D should not replace a full implementation of obligations under Article 10, according to which the special needs of developing countries should be taken into account during the preparation of SPS measures, as well as during their application. If Article 10 were fully respected, and information on S&D provided ex ante, developing countries would have less need to subsequently seek S&D. She suggested that the elaboration of the Canadian proposal should therefore indicate that the adoption of the notification procedure on transparency of S&D measures was without prejudice to the overall rights and obligations in Article 10 of the SPS Agreement.

101. The representative of Egypt believed that Canada's proposal should only be considered as a one small step and that the proposal should not contradict the obligation of taking the special needs of developing countries into account. He and the representative of India supported Malaysia concerning Article 10 of the SPS Agreement.

102. The representative of Canada indicated that her country could agree to the revised proposal if the inconsistency with Article 10.1 of the SPS Agreement were removed. Article 10.1 stated that

Members should take account of the special needs of developing and least-developed country Members. This obligation applied to all Members and not only to developed country Members. The revised proposal placed this responsibility only on importing developed countries and was thus inconsistent and unacceptable. The representatives of the European Communities and the United States expressed support for the position taken by Canada, although the representative of the United States, supported by Japan, suggested that the Committee revert to this matter at its next meeting. The representatives of Guyana and of Antigua and Barbuda also supported the position of Canada, indicating that a growing volume of trade was between developing countries, and these should also be giving assistance to each other.

103. The representatives of Indonesia, Pakistan and Colombia expressed support for the Malaysia's suggestions. The representative of Pakistan indicated that he could accept the revised proposal but could not accept Canada's modification without consultation with his capital. The representatives of India and Mexico stated that they would need to consult with their authorities regarding the modification proposed by Canada. The representative of Colombia sought clarification whether under the Canadian proposal on S&D would be extended to third countries or solely provided to the Members involved in a given consultation.

104. The representatives of Brazil, Uruguay, Argentina, Honduras and Jamaica expressed concern that the Committee would not reach agreement on the elaboration of the Canadian proposal, although the proposal itself had already been accepted in principle by the Committee. The representative of Uruguay suggested that the title of the revised proposal be amended so as to specify that it addressed S&D in favour of developing countries. The representative of Argentina noted that the original proposal from Egypt was rather ambitious, and that Canada's proposal could be considered as a practical first step in ensuring transparency of S&D.

105. The representative of Egypt stated they would like the proposal to be adopted during the ongoing meeting and could support Uruguay's proposal to modify the title. Egypt could also accept that reference to only developed countries providing S&D be removed, if a footnote could be added which indicated that some developing countries might not be able to notify the granting of S&D.

106. The Chairman proposed that the Committee adopt, on an ad referendum basis, the draft elaboration with the deletion of the qualifier of the Member providing S&D, but with inclusion of a clarification in the title that S&D was to be provided in favour of developing countries. He further proposed the inclusion of text regarding the rights and obligations under Article 10, and indication in a footnote that some developing country Members might face difficulties in reporting on their provision of S&D (G/SPS/W/132/Rev.1). The representatives of Malaysia and of the United States indicated that they could not accept the suggested procedure at this time, and requested that the Committee revert to this item at its next meeting.

(b) Issues Referred by the General Council

107. The Committee adopted the proposed work plan for the consideration of the proposals on S&D which had been referred to it by the General Council, with modifications resulting from the discussions held in the informal meeting. The agreed work plan was subsequently circulated as G/SPS/26.

108. The representative of Malaysia expressed regret that the Committee would not be able to hold further consultations on S&D prior to the Cancun Ministerial Conference. The Chairman indicated his intention to submit a brief report to the General Council about the activities of the Committee and provided Members the opportunity to submit comments on his draft report to the Secretariat. The report of the Chairman was subsequently circulated as G/SPS/27 and Corr.1.

IV. EQUIVALENCE (G/SPS/19 AND ADD.1, G/SPS/20)

(a) Report of Informal Meeting on Equivalence

109. The Chairman reported that since the last regular meeting of the Committee, two informal meetings on equivalence had been held, the first on 23 May and the second on 23 June 2003. The Committee had concentrated its informal discussions at both meetings on a clarifying text for paragraph 7, and on further clarification of paragraph 5.

110. Based on comments received at the last regular meeting of the Committee in April, the Secretariat had revised the proposed clarification of paragraph 7 (G/SPS/W/128) for the May meeting, and again for this meeting. At the informal meeting held in May, there had been a suggestion to include a reference to a second Codex document in paragraph 9(b), the Codex Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Certification Systems. There had been some discussion whether the Codex Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems were relevant only to food safety, or whether they were also relevant for animal and plant health. Some Members had suggested redrafting the second sentence of paragraph 9(b) accordingly. In May, the Committee had also debated whether paragraph 9(d) should be rephrased to ensure that where the exporting Member's measure achieved the same level of protection as the importing Member's measure, it should be recognized as equivalent, regardless of whether it met the importing Member's ALOP. Other Members had suggested that the difference in levels of protection should be resolved independently of the equivalence procedure.

111. The Chairman further reported that at the informal meeting on 23 June, the Committee had discussed the second revision of the Secretariat paper (G/SPS/W/128/Rev.2). Starting with recommendation 9(b), some Members had felt strongly that the Codex approach of establishing an objective basis for comparison should not be generalized to cover also animal and plant health, to respect the mandates and independence of the three standard-setting organizations. Other Members had held the opposite view, insisting that they considered it useful to generalize the Codex approach. The OIE representative had indicated that the OIE guidelines, while not using the same terms, contained a very similar approach regarding comparison of measures. One Member had suggested that using more neutral wording might facilitate consensus on the issue.

112. Regarding paragraph 9(d), Argentina had suggested adding a sentence to ensure that if the objective basis for comparison demonstrated that the exporting Member's measure had the same effect as the importing Member's measure, the importing Member should recognize both measures as equivalent. Argentina explained that this was to avoid problems in cases where the importing Member had not stated its ALOP, or had not stated it clearly. Other Members had indicated that they preferred to keep the paragraph as it was in the Secretariat paper. One Member had expressed concern that paragraph 9(d) addressed an issue related more to discrimination than to equivalence.

113. The Secretariat had been requested to revise the proposed clarification for consideration at the regular meeting.

114. Regarding paragraph 5 on historically traded products, Argentina had submitted a new proposal concerning additional clarification, which was circulated as G/SPS/W/123/Add.1. This proposal contains guidelines for accelerated procedures for products historically traded. At the May meeting, some Members had supported the Argentine proposal, while others expressed doubt whether a timetable for the determination of equivalence could be set at the beginning of the process. Others highlighted practical problems that might be associated with the proposal, for example with the need to categorize countries depending on the level of historical trade that had taken place. Still others had

expressed the view that the three standard-setting organizations were the appropriate fora to develop detailed procedures for equivalence, not the SPS Committee.

115. Prior to the June informal meeting of the Committee, the European Communities had provided comments on Argentina's proposal including drafting suggestions to clarify the types of information that were necessary to allow an acceleration of the equivalence procedure, and to ensure that the guidelines referred only to the specific situation of historically traded products (Job(03)110). Chinese Taipei had also provided specific comments on the guidelines proposed by Argentina, addressing the right of the importing country to seek information (Job(03)114). One Member had suggested that the acceleration of the equivalence procedure depended not only on the level of historic trade, but also on the importance of the differences between the exporting and importing Members' measures. If such a difference was small, the procedure should normally be easier to accelerate.

116. At the informal meeting, there had been discussion of the EC suggestions on paragraph 8(a) of the Argentine draft guidelines. One Member had been concerned that information about the inspection and certification systems of the exporting country was only necessary with respect to the product at hand, not all products, to allow the equivalence determination to be accelerated. This Member had also expressed concern that a history of rejected products should not necessarily preclude an accelerated equivalence procedure. Another Member had expressed concern that information about the exporting country's system might not be considered sufficient in cases where the exporter was a developing country Member. The European Communities had explained that in practice it had such information about many developing country exporters from whom it imported.

117. Several exporting Members had insisted that it would be extremely useful to agree on a sequence of steps and estimated timeframes for the procedure to be followed. This would allow the exporting country to evaluate the costs of the equivalence procedure and whether it was worth pursuing. Chinese Taipei, supported by several other Members, had indicated that it would be very difficult to establish a detailed time schedule for the equivalence determination process, since the schedule of such a procedure depended in part on the timeliness and quality of information provided by the exporting country. One Member had expressed concern that some Members might experience difficulties in providing the information required according to a strict timetable. The representative of Argentina had offered to revise its proposal in light of the comments received.

(b) Consideration of Specific Provisions of the Decision on Equivalence: Paragraphs 5 and 7

118. At the regular meeting, a number of delegations made further specific suggestions for modifying the proposed clarification of paragraph 7 of the Decision on Equivalence. These suggested inclusion of more information regarding the recently adopted OIE guidelines for equivalence, clarification of references to the objective basis for comparison as used by Codex or similar approach established by the other relevant international organization; and specification that if the exporting Member demonstrated by way of an objective basis for comparison or similar approach established by a relevant international organization that its measures achieved the same objective as the importing Members measure, the importing Member should recognize the measures as equivalent.

119. The representative of Argentina stressed the importance of the Committee reaching agreement on a clarification of its decision on equivalence. The Committee had already agreed on a clarification on Paragraph 6 of the Decision on Equivalence and a partial clarification of Paragraph 5. Without agreed clarification of Paragraph 7, Argentina considered that the most important problem with the implementation of Article 4 could not be solved. This meant that it was impossible to implement Article 4. Argentina considered it necessary that the SPS Committee develop a general recommendation to the international standard-setting bodies, so that they could incorporate an

objective basis for comparison or similar approach into their guidelines for the recognition of equivalence.

120. The Committee adopted the proposed clarification of Paragraph 7 on an ad referendum basis (G/SPS/19/Add.2).

(c) Information from Members on their Experience

121. No Member provided specific information regarding its experience with recognition of equivalence.

(d) Information from Relevant Observer Organizations

122. The representative of the OIE reported that the OIE General Session had adopted "Guidelines for Reaching a Judgement on Equivalence of Sanitary Measures" in May 2003.

123. The representative of the IPPC indicated that draft specifications for a standard on equivalence were being prepared. The drafting group would meet in early September 2003 and the result would be presented to the Standard Committee in the beginning of 2004, and thereafter be submitted for country consultation with the aim of potential adoption in 2005.

124. The representative of Codex noted that the "Draft Guidelines for Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems" would be considered by the Codex Alimentarius Commission at the end of June for final adoption. Comments received to date were of a minor editorial nature, so adoption was likely.

(e) Report to the General Council

125. The Chairman recalled that Argentina had suggested that the Committee should inform the General Council of progress on its work on equivalence. The Chairman intended to submit a single report to the General Council factually describing the work of the Committee on all matters relating to special and differential treatment and implementation, including equivalence. Copies of the draft report had been made available to delegates, and Members could submit comments and suggestions to the Secretariat. The representative of India indicated that his country would prefer a separate report regarding special and differential treatment. The report of the Chairman was subsequently circulated as G/SPS/27.

V. DISEASE-FREE AREAS (ARTICLE 6)

126. The Chairman reported that at the informal meeting on the clarification of Article 6, the Committee's discussions had benefited from presentations by the representatives of the OIE and the IPPC, as well as from written submissions by Chile (G/SPS/W/129, G/SPS/GEN/381) and Mexico (G/SPS/GEN/388).

127. The IPPC representative had introduced the two most relevant IPPC standards, one on requirements for the establishment of pest-free areas and another for the establishment of pest-free places of production and production sites. The general approach in the standards involved a system to establish pest freedom, phytosanitary measures to maintain freedom and checks to verify that freedom has been maintained. There were also a number of supporting standards such as guidelines for surveillance or one under development on low pest prevalence.

128. The OIE representative had referred to the Terrestrial Code which included the concept, principles, and practice of zoning. The requirements for obtaining disease free status for a zone also

included a system of surveillance and monitoring. Apart from the traditional concept of zoning based on geography, a new concept of management-based delineation at the enterprise level had been agreed by OIE members. Some diseases of birds and pigs were amenable to management-based bio-security, avian influenza being the first disease to be considered under this new concept. Consideration for areas of low prevalence was not as common as in the plant protection area.

129. The representative of the OIE had further noted, with respect to the requirement in Article 6.1 that Members adapt their measures to the characteristics of not only the exporting but also the importing area, that the OIE concept of recognition assumed that the importer had a disease-free status. However, it included references to SPS obligations, including national treatment, in the introductory section of the Code. At the IPPC, it was recognized that regions within a country with different characteristics could apply different measures.

130. The OIE currently provided verification of disease-free status relating to four diseases. The IPPC was not involved in the verification of pest or disease status. Representatives of both organizations explained that their mandate in the area of verification could be extended by their members but that the resource implications would be significant.

131. The Chairman further reported that, drawing on the submissions by Mexico and Chile, a number of delegations had raised concerns about the procedural and legal difficulties, delays and costs they faced in achieving recognition from importing Members for their pest- or disease-free areas, at times despite a recognition granted by the relevant international organization. Some delegations had also drawn linkages to the difficulties faced in achieving recognition of equivalence under Article 4.

132. A number of delegations had proposed that the Committee develop clear procedures with timelines for the recognition of pest- or disease-free areas, while others were of the view that OIE and the IPPC should have the primary responsibility in this regard. Referring to Mexico's submission on proposed procedures for expediting recognition, a number of delegations observed that developing country exporters might not be able to finance inspection visits.

133. One delegation had underlined the importance of transparency in the work of the IPPC as not all WTO Members were parties to it. Another delegation had pointed to possible difficulties in including timelines in the procedures due to the varying quality of information provided. The IPPC representative had indicated that biological factors might also pose difficulties in sticking to a timeline. Both the OIE and the IPPC representatives had again noted the resource implications of pursuing additional work in this area.

134. Several delegations had highlighted the importance of bilateral/plurilateral agreements in facilitating recognition of pest- or disease-free areas. The representative of the IPPC had also emphasized the important role played by regional plant protection organizations.

135. At the informal meeting, Members of the Committee had agreed to share the experiences they had had in seeking or granting recognition of disease- or pest free status by providing written submissions to the Secretariat by the end of September. Depending on submissions, another informal meeting might be held drawing on experiences of Members, followed by a discussion at the next regular meeting.

136. In response to a query from the representative of Chile, the representative of the OIE explained that the general, introductory chapters of the OIE Codes contained information regarding the rights and obligations of WTO Members to impose import measures. A Member could impose restrictions on imports if it had zones which were disease free, but only for those zones. If the

importing Member had control or eradication programmes underway for diseases, it could also set requirements on imports related to those diseases.

137. The representatives of Mexico and Honduras requested that the Committee continue to deal with this issue, since it was of central importance for developing countries. The Chairman invited Members to submit their experiences on regionalization to the Secretariat by the end of September, in order to permit a more focussed discussion at the next meeting.

VI. TECHNICAL ASSISTANCE AND COOPERATION

(a) Information from Members on the Technical Assistance Questionnaire

138. The Secretariat reported that responses to the questionnaire on technical assistance needs had been received from the Dominican Republic and Cameron.

139. The representative of the Dominican Republic asked that Members give immediate attention to its request for assistance in setting up of a technical unit to coordinate and disseminate information on the SPS Agreement prior to the next Committee meeting.

(b) Technical Assistance Activities

140. The Secretariat reported on technical assistance activities that had taken place since the last meeting of the Committee and on those planned to take place before the next meeting. A national SPS seminar had been held in Bolivia in May 2003 with 30 participating officials. Before the next meeting, three national SPS seminars were scheduled: in Moldova in early June, in the Maldives on 23-24 September, and in Bahrain at the end of October. Four national seminars on both the SPS and the TBT Agreements were also scheduled: in Georgia on 17-19 July, in the Kyrgyz Republic on 28 July-1 August, in Lebanon on 4-5 September and in the Gambia in early September.

141. Three regional workshops had been carried out since the last meeting: in Ecuador on 28-30 April, with 40 Spanish-speaking participants also from Bolivia, Chile, Colombia, Paraguay and Peru; in Benin on 14-16 May, with 50 French-speaking participants also from Burkina Faso, Cote d'Ivoire, Mali, Mauritania, Senegal and Togo; and in Cyprus on 2-4 June, with English-speaking participants also from Egypt, Jordan, Lebanon, Syria and Turkey. A regional workshop was scheduled to take place on 21-23 July in Uruguay, with participants from Argentina, Brazil, Bolivia, Chile and Paraguay. Other regional workshops were scheduled for Nigeria and Sri Lanka in October 2003, and in Uganda and the Philippines in November 2003. A joint regional TBT/SPS seminar was scheduled for 22-24 July in St. Kitts, with participants also from Antigua, Barbuda, Dominica, Granada, St Lucia, St Vincent and the Grenadines. SPS technical assistance had also been part of the WTO trade policy course for African English-speaking countries in Nairobi. The Secretariat expressed gratitude to the bilateral donors and organizations that had cooperated in the provision of SPS related technical assistance.

142. The representative of the United States drew attention to the updated information on their SPS-related technical assistance (G/SPS/GEN/181/Add.3).

143. The representative of Canada announced that the Canadian International Agency would contribute 24 million dollars for trade-related technical assistance in capacity building in the Americas. Six million dollars would be allocated to new projects with the Canadian Customs and Revenue Agency on customs administration and reform and with the Canadian Food Inspection Agency in the areas of food safety and animal and plant health measures. Requests for funding should be made through the National Trade Capacity Building Strategies through the Free-trade Area of the Americas Cooperation Programme.

144. The representative of Japan announced that his country was involved in a seminar on SPS measures which would take place in August in the Philippines.

VII. MONITORING THE USE OF INTERNATIONAL STANDARDS

(a) New Issues

145. No new issues were reported.

(b) Fifth Annual Report

146. The representative of Thailand drew attention to problems in trade arising from the non existence of Codex-determined Acceptable Daily Intake levels (ADI) or Maximum Residue Levels (MRLs) for certain veterinary drug substances. He urged Codex to convene an expert consultation in order to provide a science-based recommendation for risk management options for compounds with no ADIs and/or MRLs. The representative of Codex noted that, subject to the availability of resources, internal seminars or consultations would be convened. Codex believed that a large part of the problem stemmed from changes in the analytical methods now being used.

147. The representative of Thailand also raised concerns regarding the non-existence of OIE standards relating to poultry meat. The representative of the OIE noted that the OIE chapter on Infectious Bursal Disease (IBD) lacked recommendations with regard to poultry meat. Several countries had informed OIE that they would soon provide information that would permit the recommendation to be updated.

148. The Committee adopted the fifth annual report as modified (G/SPS/28 and Corr.1).

(c) Review of the Provisional Procedure

149. The Committee considered the review of the provisional procedure and the draft decision for its extension (G/SPS/W/134). The Secretariat suggested that a change in the procedure, to permit Members to identify new issues up to ten days before a Committee meeting, might increase the number of issues raised by Members. Several Members supported this proposed modification, however the representative of Korea questioned whether the change of the deadlines would increase efficiency.

150. The Committee agreed to extend the provisional monitoring procedure, without modification, for a further three years (G/SPS/25).

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

151. The representative of the OIE informed the Committee of the principal decisions taken at the May annual session of the OIE (G/SPS/GEN/406). Members of the OIE specialist commissions had been elected for three-year terms. The OIE would organize a global animal welfare conference in February 2004 in Paris. The existing approach of identifying List A and List B categories of diseases would be replaced by a single list for terrestrial animal diseases and a single list for aquatic animal diseases. The list of countries free from foot-and-mouth disease and from rinderpest were available on the OIE website. The full report of the General Session was available on the OIE website (www.oie.int).

152. The representative of the IPPC reported that the Interim Commission on Phytosanitary Measures had met on the 7-11 April 2003, and the report of its meeting was available on the website (www.ippc.int). One major concern of the Commission had been the speed of development of new standards, since it normally required 3-4 years on average. A "fast-track" procedure was being considered.

153. The representative of OIRSA indicated that OIRSA had held hearings on its procedures for control inspection and approval. The report on the issue could be found at its website (www.oirsa.org.sv). A project on trade in agriculture concerning harmonization of SPS measures in Latin America was being developed in cooperation with the Inter American Development Bank. The full report on the activities of OIRSA is contained in document (G/SPS/GEN/408).

154. The representative of Codex informed Members that its main activity in the near future would be the Codex Alimentarius Commission session from 30 June to 7 July 2003 in Rome. All related documents could be found on the Codex website (www.codexalimentarius.net).

155. The representative of WHO reported that since 2001 the WHO had carried out a major study on the implications of biotechnology on human health and development. WHO had also hosted the World Health Assembly in Geneva on 19-28 May 2003. Concerning the SARS virus, WHO had carried out intensive studies but saw the need for continued studies, especially concerning the possibility for transmission via ingestion. WHO, FAO and OIE had convened a meeting in Madrid in early May 2003 to define a research agenda in relation to possible SARS transmission through food and water. No evidence existed that SARS could be transmitted via food or water, but the organizations wished to examine all potential connections. A report from the meeting was available on the SARS website of the WHO. Products and goods from SARS-infected areas should not be considered to pose a risk to public health. The representative of WHO further reported on the publication of the joint FAO/WHO microbiological risk assessment for salmonella in poultry and eggs, which provided the detailed technical studies that had been undertaken in this first major international microbiological risk assessment.

156. On behalf of the World Bank, the Secretariat announced that the World Bank had released a study on standards in global trade, with a focus on Africa. The World Bank would present this study on 1 July 2003 at the WTO.

IX. OBSERVERS - REQUESTS FOR OBSERVER STATUS

157. The Committee agreed to invite the organizations with ad hoc observer status to participate in the next meeting of the Committee (ACP Group, EFTA, IICA, OECD, OIRSA and SELA). The Committee also invited all interested observer organizations to participate in the informal meetings to be held in connection with the next Committee meeting.

158. The Committee took no decision regarding the requests for observer status from the Office International de la Vigne du Vin (OIV), the Asian and Pacific Coconut Community (APCC), and the Convention on Biodiversity (CBD).

X. OTHER BUSINESS

Update on SARS situation and impact on Chinese exports

159. The representative of China provided an update on its SARS situation stating that SARS had first occurred in November 2002. As of 24 June 2003, 3,026 cases of SARS had been reported in mainland China, including 347 fatalities. Nine hundred and one cases had been discharged from hospitals. China had adopted measures to ensure the early detection, early reporting, early isolation

and advanced treatment of SARS cases. On 1 June 2003, China and ASEAN had agreed on a common action plan to combat the epidemic. The representative of China noted that WHO had withdrawn its travel warnings for Beijing on 24 June 2003. China requested that Members follow the suggestions and guidelines issued by WHO, FAO and OIE on 11 April 2003 and not impose any restrictions on imports of Chinese agricultural products and foodstuffs. Only restrictions on the movement of people had been recommended, as no evidence had so far suggested that SARS was spread through agricultural products or foodstuffs. A few Members had imposed restrictions which were not scientifically justified and China considered such measures as a violation of the SPS Agreement.

Annual report to the Council for Trade in Goods

160. The Chairman indicated that he had been asked to provide an update of the report on the Committee's activities since 2002 to the Chairman of the Council for Trade in Goods, which he would do through a brief, factual letter.

Japan's MRLs of chlorpyrifos in frozen spinach

161. The representative of China noted that his country used to be the largest exporter of frozen spinach to Japan, but that exports had ceased due to the introduction of new maximum residue limits for chlorpyrifos by Japan. China did not consider this requirement to be consistent with the SPS Agreement since it was not scientifically justified. Furthermore, Japan's limits were considerably below the level recommended by the relevant international organizations as well as below those established by the European Communities and the United States. China had requested Japan to provide evidence for its new measure and to provide a copy of its risk assessment before the end of July 2003.

162. The representative of Japan observed that Codex had not developed a standard for chlorpyrifos in spinach. The level established by Japan (0.01 ppm), was the same as required by Australia and Korea, and was also the same as the detection level applied by the United States and the European Communities. This level was based on estimated daily dietary exposure data.

BSE-related measures – Follow-up to Canada

163. The representative of Brazil reported that it had now notified six regulations relating to BSE. Canada expressed appreciation for Brazil's notifications of its measures.

EC restrictions on fruit and fruit juices

164. The representative of Brazil indicated that EC restrictions on pesticide residues in fruit and fruit juice continued to pose problems for Brazil's exports. A shipment of Brazilian apples had been rejected in Sweden because the residue level slightly exceeded the detection level, although the levels set by Codex were almost 50-times higher. He noted that this was an example of how Brazil would be affected by the new MRLs being established by the European Communities. It would require about three years for Brazilian producers to adjust to the new EC measures. Brazil considered that the burden of proof for the justification of the new measures were on the European Communities and that the present approach of the European Communities was not in accordance with the principles for special and differential treatment. China supported the concerns raised by Brazil.

165. The representative of the European Communities noted that very productive bilateral consultations had recently taken place, which he hoped would soon lead to a resolution of the problem. He observed, however, that the underlying problem was that many pesticides and chemical

products which were in use had never been properly evaluated. Where no toxicological data existed, the European Communities would use the level of detection. For products for which data was provided, the European Communities would proceed to establish an appropriate maximum residue level.

Aromatic polycyclic hydrocarbures in pomace olive oil

166. The representative of the European Communities reported on the final results of the investigation concerning the problem with olive oil contamination in Spain in 2002. The contamination had occurred due to a manufacturing error, but this problem had since been resolved. The restrictions which some Members continued to impose on Spanish olive oil were therefore no longer justified.

Paraguay's FMD status

167. The representative of Paraguay recalled that in November 2002, he had informed the Committee about the detection of FMD in two animals in an area of Paraguay that bordered on Brazil (G//SPS/GEN/360). This had resulted in a closure of export markets. Consequently Paraguay had introduced a new sanitary policy in cooperation with neighbouring countries, which included vaccination. No other cases of FMD had been detected and Paraguay expected to soon be declared FMD-free with vaccination.

Consultations with the European Communities on biotechnology

168. The representative of the United States informed Members that they and other interested parties had had consultations with the European Communities on biotechnology under the dispute settlement procedures on 19 June 2003. The consultations had not been particularly productive and the United States was now considering its next step. Canada indicated that they had participated as a third party in the US consultations, and had as well requested its own consultations with the European Communities. These consultations had been held on 25 June 2003, and Canada was also considering its next step. Argentina noted that it has also requested consultations with the European Communities, and had as well participated in the US consultations.

XI. CALENDAR OF MEETINGS IN 2004

169. The Committee adopted the provisional schedule for regular meetings during 2004, with meetings tentatively scheduled for 16-18 March, 22-24 June and 12-14 October 2004.

XII. DATE AND AGENDA FOR NEXT MEETING

170. The next regular meeting of the Committee was scheduled for 29-30 October 2003, with informal meetings scheduled for 28 October. The special meeting with enquiry points was scheduled for 27 October 2003 (subsequently moved to 31 October 2003). The Committee agreed on the following tentative agenda for its next 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) Consideration of proposals for 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

(d) Notifications of equivalence agreements

(e) Review of Decision

5. Disease-free areas – Article 6

6. Technical assistance and cooperation

7. Monitoring of the use of international standards

(a) New issues

(b) Issues previously raised

8. Transitional review under paragraph 18 of the Protocol of Accession of the People's Republic of China

9. Matters of interest arising from the work of observer organizations

10. Observers - Requests for observer status

11. Chairman's annual report to the CTG

12. Other business

13. Date and agenda of next meeting

171. With regard to the transitional review of Chinas' accession implementation, Members were invited to submit questions to the Secretariat and to the Chinese delegations before the end of September 2003.

172. The following deadlines are relevant for the next meeting:

- **29 September 2003** for identifying new issues for consideration under the monitoring procedure.

- **30 September 2003** for submitting specific comments on the S&D proposals, including specific suggestions on how to address any differences of views regarding the proposals.

- **30 September 2003** for submitting questions to China regarding the transitional review

- **30 September 2003** for submitting information regarding Member's experiences on regionalization

- **16 October 2003** for requesting items to be put on the Agenda.

- **17 October 2003** for the distribution of the airgram.