

Committee on Sanitary and Phytosanitary Measures

SUMMARY OF THE MEETING HELD ON 9-10 MARCH 2005

Note by the Secretariat¹

I. ADOPTION OF THE AGENDA

1. The Committee on Sanitary and Phytosanitary Measures (the "Committee") held its thirty-second meeting on 9-10 March 2005. The agenda proposed in WTO/AIR/2523 was adopted with amendments.
2. The Secretariat reminded Members of the importance of ensuring that documents were submitted well in advance of the Committee meeting, so that they could be circulated as formal documents, in the three WTO working languages..

II. ACTIVITIES OF MEMBERS

FMD situation in Argentina

3. The representative of Argentina presented the main actions carried out by his country's sanitary authorities (SENASA) with respect to control and eradication of FMD. These measures included vaccination, epidemiological vigilance and control of imports of susceptible animals and products. Vaccination was obligatory and carried out twice a year north of the Rio Negro and in the province of Neuquen, with vaccines officially controlled by SENASA.
4. In 2004, all suspected cases of FMD were clinically proven negative. SENASA annually implements serological testing to detect the viral activity of FMD and to estimate the immunity level conferred by vaccination. The 2004 results confirmed the absence of viral activity throughout the territory. In October 2004, SENASA carried out a series of preventive measures aimed at closely controlling FMD within the northern region including the Provinces of Jujuy, Salta and Formosa.
5. In January 2005, the area north of parallel 42 was granted the status of an "area free of FMD with vaccination" by the Scientific Commission for Animal Diseases of the OIE. The rest of Argentina, that is south of parallel 42°, has had the status of "FMD-free without vaccination" since May 2002.

BSE in Canada

6. The representative of Canada explained that Canada's regulatory safeguards measures, fully compliant with the OIE standards, includes the enforcement of a feed ban, the removal of specified risk materials (SRMs) from human food supply, measures related to the meat inspection system and an enhanced BSE surveillance programme. The effectiveness of the feed ban had recently been

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.

confirmed by comprehensive audits carried out by the Canadian Food Inspection Agency and the US Department of Agriculture (USDA), Canada's surveillance programme is aimed at maximizing the likelihood of detecting BSE and ensuring that sampling is representative. It is targeted to high risk areas and the test method protocol was designed to provide for the highest sensitivity achievable. Suspicious samples are forwarded to the National BSE Reference Laboratory for confirmatory testing using an OIE officially recognized testing method for BSE. The financial reimbursements offered to producers have resulted in a very high level of cooperation in ensuring all high risk animals are tested. From December 2003 to March 2005, only two additional cases of BSE had been detected in old animals.

7. The representative of Canada recalled that in early February 2005, Canada had notified proposed amendments to its BSE Import Prohibition Order currently regulating imports from the United States. A draft comprehensive import policy for BSE that would apply to imports from all countries would be notified soon.

8. He further stressed the profound disappointment of his government when the USDA rule "BSE : Minimal-Risk Regions and Importation of Commodities" published in January 2005, under which Canada was correctly assessed as a minimal risk region for BSE, was prevented from being implemented by a US District Court injunction. Canada urged the US health authorities to resolve this issue in an expeditious manner.

BSE in the United States

9. The representative of the United States provided information on actions that the US food safety and animal health agencies had taken to strengthen consumer confidence in the safety of US beef products. The United States had started to address BSE issues prior to the detection of a single case of BSE, in December 2003,

10. when a ruminant-to-ruminant feed ban was implemented in 1995. In 2002, the United States had conducted a risk assessment which documented that necessary and sufficient controls were in place to ensure that should BSE be detected in the United States, the spreading of the disease would be efficiently circumscribed.

11. In December 2003, a single case of BSE was detected in Washington State from a cow of Canadian origin. In January 2004, the US Secretary of Agriculture appointed an international panel of scientific experts to review the risk of BSE in the United States and implemented additional safeguard measures (G/SPS/N/USA/844). Following the recommendations of the international panel, a comprehensive, scientifically based BSE surveillance programme was implemented in June 2004 to test as many high risk animals as possible. As of 6 March 2005, over 263,000 high-risk animals have been tested and all tests have proven negative. The United States determined that if 268,500 high-risk animals were tested, the plan would be able to detect the presence of as few as five targeted, high-risk cattle with BSE at a 99 per cent confidence level.

12. On 14 July 2004, the Food and Drug Administration (FDA) issued an interim final rule on the use of materials derived from cattle in human food and cosmetics, aimed at minimizing human exposure to materials likely to contain the BSE agent (G/SPS/N/USA/933). The same day, the FDA proposed another rule on record keeping requirements for human food and cosmetics manufactured from or containing material from cattle (G/SPS/N/USA/934).

13. In January 2005, the United States published a final rule establishing science-based criteria for recognizing geographic regions presenting minimum risk of introducing BSE into the United States and providing risk mitigation measures. Under that final rule, Canada was designated as a minimal risk region for BSE. In January 2005, following the report of two additional cases of BSE in

Canada, a technical team from the United States investigated the efficacy of Canada's ruminant-to-ruminant feed ban and found that Canada's feed ban was efficient in reducing the risk of transmission of BSE. On 2 March 2005, the minimum risk rule was challenged in a US federal court one week prior to its implementation and was therefore suspended.

14. The representative of the European Communities underlined that the European Communities had not changed its policy towards imports of beef products from either the United States or Canada as a consequence of the BSE cases, as the European Communities recognized that the most important risk management measures had been taken. However, Canadian and US risk management measures were less comprehensive than those of the European Communities, as had been described during the workshop held the previous day. The European Communities hoped that once Canada's comprehensive import policy for BSE was implemented, EC exports of beef products to Canada would recommence. Similarly, when the US minimum risk rule entered into force, the European Communities should be recognized as a minimum risk region. He further urged all other third countries to adopt a more science-based approach towards import measures for beef products.

EC traceability requirements for third countries

15. The representative of the European Communities recalled that at the SPS Committee meeting of October 2004, information had been provided on the traceability provisions as laid down under the General Food Law Regulation of 2002. A document had been distributed through WTO on this specific issue in February 2005 (G/SPS/GEN/539).

III. SPECIFIC TRADE CONCERNS

(a) New Issues

EC food and feed hygiene rules

16. The representative of Canada sought clarifications from the European Communities on the requirements that would apply to third countries when the new food and feed hygiene rules come into force on 1 January 2006 (Regulations 852/2004, 853/2004 and 854/2004). Canada was specifically concerned about traceability and record keeping for bulk commodities, registration of all food establishments (production, processing and distribution) and animal welfare. He further invited the European Communities to solicit comments from third countries sufficiently in advance of the implementation date so that the comments could be incorporated into the final measures.

17. The representative of the United States asked how the proposed requirement that all food imports be produced under an "HACCP-based" system would be implemented and questioned whether an HACCP-like food safety system would have to be applied for lower-risk foods such as confections and snack foods. He also questioned if all foods exported to the European Communities would have to be accompanied by a government-issued health certificate. He encouraged the European Communities to provide more formal explanations of the nature and scope of the rules applying to exporting countries in the near future.

18. The representative of Jamaica agreed with Canada and United States on the need for further clarifications from the European Communities; Jamaica was expecting significant difficulties in meeting these requirements.

19. The representative of the European Communities recalled that a document clarifying the traceability provisions of the new body of legislation had been circulated in February 2005 (G/SPS/GEN/539). This document clearly explained that the traceability provisions were not extraterritorial and that the essential aim of the regulation was that each link in the chain of supply

could be identified in the event of product recalls. It was not the intention to use this new hygiene legislation to address the issue of animal welfare as, which the European Communities considered should not be mixed up with food safety concerns. The requirement for an "HACCP-based" food system would vary according to the risk posed by the food. Bilateral discussions with the US authorities on the issue of establishment' registration were continuing. A seminar open to all third countries would be held in Brussels, most likely in June 2005, to fully explain the consequences of the entry into force of the food and feed hygiene rules. At that occasion, comprehensive documentation and guidelines would be provided on how the regulation would apply in practice.

Japan's amendment protocol on MRLs for pesticides, veterinary drugs and feed additives

20. The representative of China reported that the issue of Japan's Ministry of Health, Labour and Welfare amendment to the maximum residue limits (MRLs) for pesticides, veterinary drugs and feed additives had been discussed in a bilateral meeting. Although the measure had not yet been notified to the SPS Committee, Japan had sought the opinion of the relevant departments and business communities of China on the proposed amendment in 2004. China was concerned that the proposed adoption of a single standard limit of 0.1ppm for the close to 700 types of pesticides, veterinary drugs and feed additives for which no specific residue limit had been established would jeopardize Chinese exports of vegetables to Japan. Although China respected the right of Japan to protect public health, it expected that in doing so Japan would, as specified in the SPS Agreement, assess the possible impact of such an amendment on exports to Japan, provide opportunities to discuss the results of this assessment and consider solutions to minimize its impact. China also expected that Japan would provide the science-based risk assessment that had led to the amendment of the MRLs. Should there be any notification in the future on this issue, Japan should provide a comment period of at least 60 days as of the date of distribution and extend this upon request. The representative of China further requested that, when specifying the time for the formal implementation of the proposed amendment, Japan provide an adequate adaptation period in accordance with the decision at the Doha ministerial meeting. Finally, the representative of China sought clarifications on the Japanese detection method for residues.

21. The representative of the Philippines supported China's concerns on this issue and requested relevant information from Japan in order to assess the possible implications of this proposed amendment on the Philippines' exports to Japan.

22. The representative of Japan clarified that the Japan's new positive list system, based on the revised Food Sanitation Law, was aimed at regulating the distribution of foods that contained agricultural chemicals, veterinary drugs and feed additives for which no MRLs had yet been established. Before the positive list system would enter into force, the Ministry of Health, Labour and Welfare would review the compliance of its provisional MRLs with the Codex Alimentarius standards. China's concerns on comment and implementation periods would be reported to the relevant Japanese authorities.

EC directives on residual pesticide tolerance and inspection methods for tea

23. The representative of China recalled that in July 2001, the European Communities had issued a directive on residual pesticide tolerance and inspection methods for tea in which the EC maximum residue limits (MRLs) for seven types of pesticides were higher than those of the Codex standards. When previously discussing that issue bilaterally, China had requested, unsuccessfully, to be provided with the scientific evidence and risk assessment justifying these MRLs. The representative of China also urged the European Communities to apply its detection method for residues on diluted tea as opposed to dry tea leaves, in which pesticide level were much higher, as the imported of dry tea leaves were mainly destined to be consumed as diluted drinks.

24. The representative of India supported the points raised by China and observed that India had already raised this issue bilaterally with the European Communities on previous occasions. India was concerned that tea was being singled out for rigid residual limits while other competing products consumed in larger quantities in European Communities were not affected.

25. The representative of the European Communities clarified that the current regulation on MRLs for pesticides was a combination of EC and member States MRLs. The European Communities was in the process of adopting a new regulation on MRLs for pesticides in all food and feedstuffs that would harmonize all EC member states' national legislation and would likely enter into force in mid 2006. The EC inspection methods for tea were based on the existing Codex methods. Should any Member wish to change the Codex methods to provide for testing of liquid tea instead of the dry leaves, they would have to provide Codex with the scientific evidence supporting that request. He recalled that this issue had already been discussed bilaterally with China and in 2001 China had been invited to submit an example of the Chinese methodology to set MRLs for liquid tea. The European Communities was willing to pursue discussions on this issue at a bilateral meeting scheduled to take place shortly in Beijing. In relation to India's concern, there was no intention to discriminate against tea in relation with any other beverages. He recalled that at the October SPS Committee meeting, several Members had argued that the EC regulation on Ochratoxin A in coffee was discriminating against coffee in favour of other beverages.

Panama's inspection regime

26. The representative of the United States stated that Panama had broadened its establishment inspection requirements to most food processing establishments in January 2005, without notifying the WTO and providing interested Members an opportunity to comment. This was in contradiction with Article 7 and Annex B of the SPS Agreement. In addition, Panama had not provided any risk assessment that supported these new measures, despite formal requests by the United States. In accordance with Article 5 of the SPS Agreement, the risk assessment should describe the factors considered, the procedures used and the level of risk determined to be acceptable, and the measures based on this risk assessment should be no more trade restrictive than required to achieve the appropriate level of health protection.

27. The representative of Canada recalled that Canada also had experienced problems in the past with the establishment-by-establishment accreditation approach used by Panama. He urged Panama to consider the quicker and less expensive alternative approach of systems approval.

28. The representative of Panama pointed out that this was the first time, since the implementation of Panama's inspection regime for the inspection of food establishments in 1995, that an issue in relation with this system had been raised within the WTO. This regime had been notified to the SPS Committee and Member provided an opportunity to comment on it (G/SPS/N/PAN/1, G/SPS/N/PAN/28 and G/SPS/N/PAN/37). Panama's legislation required that imports of animals and animal products from countries affected by exotic illnesses be subject to a risk analysis carried out by the Panamanian health authorities because Panama, as a hub for world trade transit, was exposed to a greater risk of illness from exotic animals and plants.

Guatemala's restrictions on imports of chicken meat

Guatemala's restrictions on the transit of avocados

29. The representative of Mexico recalled that his country had raised two concerns on Guatemala's restrictions on imports, one on chicken meat and one regarding the transit of avocados. Important progress had been made recently by Guatemala in trying to find solutions to both problems, and Mexico would continue to monitor the issues bilaterally and in the context of the Regional Organization for Agricultural Health (OIRSA).

30. The representative of Guatemala confirmed Guatemala's willingness to continue working on these issues with Mexico.

Japan's restrictions on beef imports

31. The Ambassador of the United States emphasized the United States' extraordinary concerns regarding Japan's continuing restrictions on US beef based on the detection, in December 2003, of a single case of BSE in an imported cow. She recalled the United States' ongoing cooperation with Japan, over the past 14 months, to resolve all scientific and health concerns about the safety of US beef. The October 2004 bilateral agreement on a framework to allow the resumption of US beef exports to Japan required the United States to provide all the scientific information requested by Japan and to allow access for Japanese technical officials to US facilities. Effective firewalls had been in place for many years to prevent the establishment and spread of BSE within the United States, that in response to the single case of BSE, the United States had implemented several additional regulatory measures to further strengthen existing safeguards, had completed a comprehensive epidemiological investigation and taken many other actions described in paragraphs 10 to 14 above, and given that there had been no indigenous cases of BSE reported, there was sufficient scientific evidence for Japan to immediately remove restrictions on US beef and beef products. She concluded by strongly encouraging Japan to act immediately to remove these restrictions.

32. The representative of Japan indicated that the BSE issue was a challenge equally shared by exporters and importers. Despite these difficulties, Japan had addressed the US beef issue as one of the most important policy agenda items for the Japanese government. He recalled that in October 2004, Japan and the United States had agreed on a framework to resume the two-way trade in beef, subject to their respective domestic approval processes including deliberation by their food safety commissions. The Japanese food safety commission, an independent risk assessment entity, was now conducting this risk assessment on domestic BSE measures and after its completion, based on the conclusions of the assessment, risk management entities would assess the risk of US beef imports.

Greece's inspection and testing procedures for imported wheat

33. The representative of Canada emphasized his country's concerns regarding Greece's new inspection and testing requirements for imports of grains from third countries. These were introduced in August 2004 and exceeded existing EC requirements by requiring the testing of 100% of shipments. Greece had provided no scientific rationale to justify the introduction of these measures and Canada considered the Greek measures to be inconsistent with the SPS Agreement. These measures had already created significant costs and long delays for imports of Canadian wheat, thus jeopardizing Canada's access to the Greek market. Canada's concerns had already been, unsuccessfully, expressed on numerous occasions to both Greek and EC officials, including at technical level, and he urged Greece to review these requirements without further delay.

34. The representative of the European Communities stated that the Commission had been in extensive bilateral contacts with both Canadian and Greek authorities in an effort to find a solution. Greece was in the process of adjusting three major aspects of the ministerial decision with the aim of bringing its measure into full compliance with the SPS Agreement. In particular, Greek authorities were considering the repeal of the provisions establishing additional quality criteria, the re-establishment of the normal EC requirements with regards to testing, sampling and inspection procedures and the removing of any provisions that might be viewed as discriminatory against imported products.

Australia's restrictions on imports of fresh grapes

35. The representative of Chile recalled that concerns regarding the undue delays experienced by Chilean exporters of fresh grapes for the approval of their exports to Australia had already been raised at the October 2004 meeting of the Committee. These delays were contrary to the provisions of the SPS Agreement, notably Article 5.4 and Annex C. This concern dated back to 1998, when the Chilean Agriculture and Livestock Service (SAG) had requested the Australian Department of Agriculture, Fisheries and Forestry (AFFA) to carry out studies in order to establish requirements for the exports of Chilean fresh grapes and other fresh food to Australia. Since 1998, the request had gone through various stages, but the worse occurred in 2004 when, due to the restructuring of the Biosecurity Australia agency responsible for the approval of the import risk analyses (IRAs), the IRA for Chilean fresh grapes was revised. In February 2005, the draft text of the new IRA for Chilean fresh grapes was published and subjected to a 45-day consultation period. The representative of Chile underlined Chile's serious concerns that this IRA would not be finalized in time for the October export period for Chilean fresh grapes.

36. The representative of the European Communities supported Chile's concerns recalling that the European Communities was facing similar problems for various food products. He urged Australia to ensure that its sanitary and phytosanitary measures were taken exclusively for sanitary and phytosanitary reasons and without undue delays.

37. The representative of Australia clarified that, in October 2004, the Australian government had announced that Biosecurity Australia would become a prescribed agency to give it a greater degree of independence from the operations of the Australian Government Department of Agriculture, Fisheries and Forestry. Subsequently, all draft IRAs, including the one on Chilean fresh grapes, would be reviewed and reissued by Biosecurity Australia. Biosecurity Australia had become a prescribed agency in December 2004 and shortly after had reviewed and reissued several of the draft IRAs. Two of these IRAs (G/SPS/N/AUS/148/Add.1 and G/SPS/N/AUS/153/Add.1) had recently been released for public comments, while the revised draft IRA on importation of fresh grapes from Chile was currently available for public comments on Biosecurity Australia's website and in the process of being notified to the SPS Committee.

United States restrictions on Ya pears imports

38. The representative of China reported that, at the end of 2003, the United States Animal and Plant Health Inspection Service (APHIS) had suspended imports of Ya pears from China on the grounds that new species of the fungus *Alternaria sp.* had been found in the Chinese pears. The Chinese Government had undertaken cooperative studies with their United States counterparts and finally obtained a result satisfactory to both Chinese and US specialists. However, US authorities had not yet made any decision based on the above results and imports of pears from China were still suspended.

39. The representative of the European Communities noted that the European Communities was also experiencing lengthy decision-making procedures when trying to export some plant products to the United States, and he invited the United States to review its internal administrative procedures.

40. The representative of the United States clarified that imports of Ya pears from China were suspended in December 2003 due to repeated detections of the exotic fungus *Alternaria sp.* and that imports of these pears had already been suspended in previous years for a similar problem. In May 2004, the Chinese authorities had been provided with a document describing the status of this organism as a pest of quarantine significance and the United States had been working closely with the Chinese authorities to develop conditions that would allow the reopening of the market while providing appropriate plant protection for the United States. After several bilateral discussions,

agreement had been reached in November 2004 on a work plan stipulating that Chinese scientists would cooperate with US scientists to develop possible measures to mitigate the fungus. A protocol had been agreed in December 2004 to enable a test shipment of Ya pears to be imported for research purposes into the United States to evaluate the various mitigation measures. Unfortunately, the collaborative research showed that even with all the mitigation measures in place, the infestation rate still significantly exceeded the one specified in the work plan of November 2004. *Alternaria sp.* was a newly identified species not known to exist in the United States, and a better understanding of this organism was necessary to develop appropriate mitigation measures. The United States was committed to continue its collaborative efforts with China to identify measures that could reduce the level of infestation to an acceptable level so that the market might be reopened.

EC plant health directive

41. The representative of the United States indicated that, although he appreciated that the aims of the new EC plant health Directive 2000/29/EC, as amended, and Regulation 1756/2004, were to harmonize criteria within the European Communities and to reduce phytosanitary inspection levels, under these new rules it appeared that the inspection rates would significantly increase in relation to previous years. The United States questioned the validity of such an increase in controls given that it had been exporting substantial volumes of fresh products to the European Communities for many years with no reported interceptions of harmful organisms. The increase in inspections was likely to disrupt trade by slowing the release of products to importers, thus increasing the potential for spoilage and damage. The United States was also seeking clarification on how EC member States had provided the data on imported consignments and inspections, as required under Regulation 1756/2004.

42. The representative of the European Communities clarified that the overall purpose of the new Regulation was to reduce the level of phytosanitary controls on imports of certain plants, plant products and other objects listed in part B of Annex V to Council Directive 2000/29/EC. However, there would be a period of adjustment in moving towards this new system during which controls would likely increase. A bilateral meeting had been scheduled the previous day in Brussels with representatives of the US industry to discuss the impact of the legislation and EC authorities were making as quick a transition as possible to the new system of controls, taking into account the past record of US fresh produce exports.

Thailand's Regulation 11

43. The representative of the United States observed that, in response to extensive comments on Thailand's Ministry of Public Health Regulation N° 11, notified as G/SPS/N/THA/116, Thailand had delayed its implementation from December 2004 to March 2005, but had not addressed the substantive issues raised by the United States. Many US fresh food products had been categorized in that Regulation as high risk with no scientific basis. As a result, burdensome and costly testing and certification of compliance with pathogen requirements, and pesticides and heavy metals residue levels were now required for US exports to enter the market. He urged Thailand to suspend implementation of the Regulation until a science-based risk assessment for each product affected had been conducted. The date of entry into force of the Regulation was only a few weeks away, and US exporters were not prepared to meet these requirements. Significant trade disruption and losses were likely.

44. The representative of New Zealand also expressed concerns about the testing and certification requirements of Regulation 11 and stated that the Regulation was inconsistent with Articles 2.2, 2.3., 3.3, and 5, and paragraph 5 of Annex B of the SPS Agreement. She requested Thailand to further delay the entry into force of the regulation in order to substantially amend it.

45. The representative of Thailand indicated that he would convey the US and New Zealand concerns to the relevant Thai authorities. The Regulation was part of a national strategic plan on food aimed at strengthening control measures for the safety and quality of Thai food from farm to table or export markets. The Regulation was not intended to discriminate against imports in relation with domestic food products.

Bolivia's slaughter of imported breeding cattle

46. The representative of Mexico stated that Bolivia had slaughtered a number of Mexican cows in 2004 on the grounds that Mexico was a high-risk country for BSE. Mexico considered this to be in breach of Articles 2.2, 2.3, 5, 6 and Annex C of the SPS Agreement. BSE was classified as an exotic illness in Mexico and had been included in both the immediate reporting list and, since 1994, in the programme for the training and dissemination of information regarding exotic illnesses of the United States-Mexican Commission for the Prevention of FMD and other exotic illnesses of Animals (CPA). At the end of 1996, the Mexican animal health authorities had implemented an epidemiological surveillance programme for BSE, based on the OIE recommendations, aimed at controlling the occurrence of BSE in the country and preventing its entry into the country even though Mexico had prohibited the import of animals and animal products from countries affected by BSE since 1991. Under that programme, each region of the country had a coordinator, reporting to the CPA, who was responsible for the training and monitoring of the personnel in slaughter houses.

47. The representative of Mexico also clarified that Mexico had in place a National Animal Health Emergency Mechanism (DINESA) to respond to any potential outbreak of BSE and a plan had been elaborated by the CPA to eradicate BSE as quickly as possible. He recalled the free from BSE status of his country and concluded that the issue with Bolivia had been resolved.

48. The representative of Bolivia clarified that the Mexican cattle had been exported to Bolivia for an agricultural fair and had arrived at Bolivia's airport without the relevant animal health permit. As a result, the Bolivian health authorities had required the re-exportation or the disposal of the cattle. Following a reasonable period of time during which the Mexican authorities had not reacted, the cattle had been slaughtered.

(b) Issues previously raised

Indonesia - FMD restrictions

49. The representative of Argentina recalled that the issue of Indonesia's unjustified restrictions on meat from Argentina had been raised in the Committee since October 2001. He considered the requirements imposed by Indonesia to be inconsistent with Articles 2.2, 5.1 and 3.3 of the SPS Agreement. Indonesia required that bovine products come from areas free from FMD for the past twelve months, and where vaccination had not been carried out in the previous three consecutive years in accordance. Not only did these requirements exceed the provisions of the Terrestrial Animal Health Code of the OIE, but they were even less justified now that Argentina had recovered its status of free from FMD with vaccination in the region north of latitude 42°. The representative of Argentina requested Indonesia to take the relevant actions to bring its national legislation in line with the recommendations of the OIE or else present a risk assessment that justifies their requirements.

50. The representative of Indonesia noted that he would transmit the concerns of Argentina to the capital so that the appropriate officials could respond as soon as possible. However his understanding was that Indonesia had submitted a protocol for the approval and inspection for export of meat products from Argentina and was waiting for the response from Argentina.

Panama – FMD restrictions

51. The representative of Argentina recalled that at the October 2004 meeting he had reported a bilateral agreement whereby officials from Panama would carry out a visit to establish the safety of Argentina's milk products. Panama and Argentina had agreed that this visit would be carried out as soon as possible so that the trade of these products could be permitted. However, despite the fact that Argentina reiterated an invitation last month, the visit has not taken place and Argentina dairy products continued to be unjustly prevented from entering Panama. Argentina considered that the requirements imposed by Panama were inconsistent with the SPS Agreement. The representative of Argentina asked Panama to take the measures required to make that visit possible as quickly as possible so that trade in milk products could be re-established in accordance with the recommendations of the Terrestrial Animal Health Code of the OIE.

52. The representative of Panama took note of the great efforts deployed by Argentina to control FMD with vaccinations. Panama permitted imports of agricultural products if the country of origin showed objectively that its sanitary measures guaranteed the same level of protection as the sanitary measures established in the regulations of Panama. The legislation in Panama required that imports of animal products from countries effected by exotic illnesses be preceded by a risk analysis undertaken by the Panamanian authorities, based on the methodologies recommended by the international organizations of which Panama was a member. The inspection of establishments in the exporting country was part of the process to determine the sanitary and phytosanitary situation of the country. Panama would be pleased if the Argentine authorities developed a plan of actions so that Panama could carry out the visits in Argentina.

Certain Members - Regionalization and recognition of animal disease free status

53. The representative of the European Communities again drew attention to the fact that some WTO Members continued to apply unjustified restrictions on EC exports of animal products due to FMD. The whole EC territory was officially free of FMD yet some WTO Members failed to recognize this disease free status. No new outbreaks of FMD were recorded in the territory of the European Communities since 2002 and FMD was under control and completely eradicated. The ban was even further unjustified in the case of Austria, which had last experienced an FMD outbreak in 1981, nearly 25 years ago. Still there were some WTO Members which refused to recognize this EC member State as free from FMD, resulting in a complete ban on imports of animal products from this country. The representative of the European Communities urged all Members to respect the obligations of the SPS Agreement with regard to recognition of disease-free status and to remove all unjustified import restrictions.

Certain Members - Regionalization and recognition of animal disease free status

54. The representative of the European Communities expressed concern that some WTO Members seemed to simply ignore the provisions on regionalization of the SPS Agreement. The European Communities recognized regionalization of several WTO member who themselves refused to recognize regionalization in the European Communities. The European Communities was in the position to demonstrate to importing WTO Members which regions of the European Communities could safely export live pigs, pork meat and pork meat products and which regions could not. Spain was officially free from classical swine fever since July 2002, according to international standards. However some WTO Members continued to apply a ban on imports of pork meat products from this EC member State.

55. The representative of the European Communities emphasized that according to Article 2 of the SPS Agreement, there was no scientific justification to ban imports of products from a country where a disease did not exist. He urged all Members to respect the obligations of the SPS Agreement

with regard to the recognition of disease free status for classical swine fever and to remove all related unjustified import restrictions on live pigs, pork meat and pork meat products not only from Spain but from all other EC member States free of the disease..

Venezuela – Restrictions on imports of potatoes, onions, fertilised eggs, day-old chicks and meat products

56. The representative of Canada reiterated its long-standing concerns about discretionary import licensing being used by the sanitary and phytosanitary authorities of Venezuela to restrict imports of potatoes, onions and pork from Canada. However, there had recently been two substantive meetings with a senior delegation from Caracas and Canada expressed the hope that they would be able to report that this issue was successfully be resolved before the next meeting.

57. The representative of the United States shared Canada's concerns regarding Venezuela's restrictive import licensing and SPS permit regimes, which also restricted US exports. The United States was specifically raised concerned about: (1) Venezuela's use of SPS permits to enforce quotas based on economic rather than scientific justifications; (2) the lack of transparency and the apparent inconsistency of the import license import permit approval process which resulted in significant delays in the issuance of some permits and licences compared to others and which arbitrarily reduced the quantity approved for import compared to the requested amount; and (3) Venezuela's insistence on requiring importers and the users of imported products to purchase domestically produced commodities in order to gain approval or permission to import. The United States encouraged Venezuela to renew the bilateral discussions on these issues so that an acceptable resolution could be reached.

58. The representative of Venezuela confirmed that they had fruitful consultations with Canada were hoping to have a satisfactory resolution to this issue in the nearer future. The results of their efforts to resolve this problem and address the concern of the United States would be presented at the next committee meeting.

United States - Import restrictions on potted plants from the European Communities

59. The representative of the European Communities reiterated concerns that for more than 20 years this sector has attempted to obtain better conditions for access to the US market. Numerous bilateral contacts had been developed between the EC member States and the US health authorities. The most recent visit in May 2003 resulted in a US assessment that EC member States had very high SPS standards and were expected to meet US requirements. However, the continuing difficulties are exemplified by the case of a Danish request for approval to export Schlumbergera to the United States. The initial request for approval was submitted ten years ago; the US pest risk assessment became available only in June 2004. The representative of the European Communities urged the United States to review its internal administrative procedures in the phytosanitary field to ensure these do not create unjustified trade restriction.

60. The representative of China shared the concerns of the European Communities. In 1980, China started to export potted plants in growing media to the United States, and experienced problems similar to those of the European Communities. For example in 1996 China signed a work plan for exporting plants in growing media to the United States. To date, China cannot export to the United States, and hoped that this issue could be solved without undue delay.

61. The representative of the United States recognized the importance of this issue to the European Communities. The United States has taken a number of steps to ensure that the concerns were handled as expeditiously as possible. The United States was examining how and whether its import regulations for nursery stock, including plants in growing media, might be changed. An

advanced notice of proposed rulemaking, had been published in December 2004, and the representative of the United States encouraged all Members to provide comments on that proposal. The proposal sought to streamline the specific process questioned by both the European Communities and China. The United States hoped to publish a proposed rule for Schlumbergera from the European Communities in the nearer future.

Japan – Official control restrictions on citrus and other fresh fruits and vegetables

62. The representative of New Zealand reiterated concerns that Japan's quarantine systems and procedures were not fully in conformity with international norms and practices. Specifically, Japan applied quarantine measures to pests that were already present in Japan and not under "official control" as defined by the IPPC. New Zealand welcomed Japan's announcement of expanding its non quarantine pest list through the addition of 46 pests, especially as this list included a number of pests of specific concern to New Zealand. New Zealand encouraged Japan to implement these proposed changes in full as soon as its domestic regulatory procedures allowed, and in a manner that significantly addressed their concerns. The representative of New Zealand also requested information on Japan's proposed timetable for carrying out risk assessments on other pests of concern to New Zealand with a view to their inclusion on Japan's non-quarantine pest list as soon as practicable. New Zealand appreciated the constructive approach that Japan had shown in seeking to address this issue since it was first raised in the Committee.

63. The representative of the United States shared the concerns of New Zealand that Japan's systems and procedures needed to be further modified to conform to international norms and practices. The United States was encouraged by Japan's recent proposals to amend its report requirements to provide non quarantine status to several pests currently subject to fumigation and hoped to see these changes implemented as soon as possible.

64. The representative of the European Communities expressed similar concerns and appreciation for Japan's efforts to revise its plant quarantine process so as not to restrict trade. The European Communities had been also badly affected by Japan's legal definition of pest which included pests which were present in Japan and not subject to official control to fumigation import requirements.

65. The representative of Japan pointed out that his Government had notified the draft amendment of the ordinance modifying non-quarantine pest lists in December 2004 (G/SPS/N/JPN/132). Comments from Members had been accepted for 60 days between 4 January and 4 March 2005. Under the internal procedures of Japan, comments were collected through the procedure of public comments between 27 December 2004 and 25 February 2005 and a public hearing meeting was held on 23 February 2005. These comments were presently under examination by the plant quarantine authorities of Japan and it would take approximately one month to amend the relevant regulations, if approved. The second measure, which was under consideration, would be taken as soon as the relevant work on the pest risk analyses were completed.

European Communities – Deviation from international standard for wood packing material

66. The representative of the United States welcomed the European Council's vote on 28 February to delay the debarking requirement contained in Directive 2004/102/EC until 1 March 2006. The issue of debarking was considered during the development of ISPM 15 and it was determined during those discussions that the available scientific evidence did not justify requiring debarking. The representative of the United States looked forward to working with their EC colleagues to develop a science-based resolution of this issue during this one year delay.

67. The representative of Canada pointed out that no technical justification existed today for a debarking requirement. Canada appreciated the extension until March next year by the European Communities. The representative of Canada hoped that if a debarking requirement should be found necessary it could be done on a multilateral basis within the context of ISPM 15. Once an international standard was developed by the appropriate body, if various countries implemented different variations of that standard, this undermined the purpose and intent of the standard. It created considerable challenges for both importers and exporters, particularly those from developing countries.

68. The representative of the Philippines also welcomed the EC postponement of the implementation of such a requirement. The Philippines noted that debarking should not be imposed if the wood packaging was already on the market or certified to have undergone the approved treatment according to ISPM 15, since this would have addressed the phytosanitary concerns associated with wood bark. The Philippines asked the European Communities to take the developments in international standard settings on this issue into account when they decided whether or not they implement their current legislation. The representative of the Dominican Republic asked the European Communities for clarification of this extended period.

69. The representative of the European Communities emphasized that they had acted in full compliance with their international obligations in this particular case. The problem related to what extent ISPM 15 permitted debarking. The European Communities had a very good disease status with respect to certain nematodes commonly found in wood packaging material elsewhere in the world. Notwithstanding the views of EC member States that this was a valid measure, the Commission, in light of protests from many third countries, took a decision to postpone the measure for one year. The Council of Ministers supported the Commission's decision to postpone the measure. Essentially, the risk management process overruled the risk assessment process. The European Communities now had a year to see how matters developed but the issue might arise again.

India – Non-notification of various SPS measures

70. The representative of the United States again expressed its concern regarding India's actions to meet its transparency obligations under the SPS Agreement. Despite the request of the United States, India has implemented SPS measures without notifications to the WTO. This practice led to trade disruptions. The SPS Agreement obligated Members to notify any new import requirement that may have an effect to trade. In particular, the Indian Department of Animal Husbandry and Dairy implemented import conditions on dairy and pet food products that were imposed during the latter part of 2003. To date these measures had not been notified. Such practice continued to raise uncertainty among US exporters without any enhancement of food safety. The United States requested that India suspend the implementation of these measures on dairy products and pet food until WTO notification was made and a reasonable time was provided to Members for their review and comment. The representative of the European Communities shared the concerns of the United States and urged India to comply with the obligations of Article 7.

71. The representative of India stated that they had notified their import regulations to WTO from time to time. However, there had not been clarity regarding the need to notify sanitary conditions related to imports. Since this had been clarified, India would now take the necessary steps to notify such conditions as early as possible.

Korea – Guidelines for maximum residue level (MRL) testing

72. The representative of the United States reiterated concerns regarding Korea's proposed annual MRL test for the presence of 196 agricultural chemicals, which affects imported grains, fruits and vegetables (G/SPS/N/KOR/123). In the initial proposal, the costs of such tests to importers were

estimated to be between US\$1,000- 2,000 per test. Korea has since proposed exemption from mandatory laboratory inspection for imported food with a clean record. However, the proposed exemption has not been included in the final revised regulation. Korea also reduced the number of chemicals subject to mandatory laboratory inspections from 196 to 47, and the fee for testing to approximately US\$500. But the proposed fee is still twice as large as that initially proposed by the Korean Food and Drug Administration in October 2003. Furthermore, the fee for mandatory laboratory inspection remains as a barrier to new products. Domestic producers are exempt from the mandatory testing requirements but they are subject to random tests. However, the Korean Government bears all the costs for these tests. The United States has had bilateral consultations with Korea for nearly two years, and further consultations are scheduled.

73. The representatives of the European Communities and of the Philippines shared the concerns of the United States. The representative of the Philippines indicated that the requirements would be particularly burdensome for developing countries, and asked Korea to take special consideration of developing countries exporters.

74. The representative of Korea noted that the revised regulation to implement this measure will come into effect this year. The proposed testing fee was reviewed following a public hearing process. Some interested groups expressed the view that the proposed testing fee would not be enough to compensate the cost of the necessary testing for food safety. Korea carefully reviewed the various opinions which were presented during the public hearing. On this basis, Korea decided on the level of the testing fee. That level is two times higher than the proposed one, yet about one fourth the level initially proposed. Korea has a cost compensation system and the level of the testing fee must cover the actual cost for testing. If necessary, the testing fee would be adjusted in the future.

European Communities – Restrictions on the use of fishmeal

75. The representative of Norway reiterated concerns regarding the European Communities prohibition on the use of fishmeal in ruminant feed due to BSE concerns. The OIE had confirmed that there was no scientific evidence to support the view that fish or fishmeal could transmit or disseminate the disease, however the European Communities imposed the ban to protect from failures in its own implementation of rules on animal feed. A diagnostic method with the necessary sensibility was now available, but the safeguard measures were still in place. The restrictions on the use of fishmeal had negative consequences on trade, were not based on scientific evidence and were more restrictive than necessary. Norway requested information from the European Communities as to the future of the imposed safeguard measures.

76. The representative of Iceland supported the statement made by Norway. The decision to ban the use of fishmeal in feed for ruminants was introduced because of fear of cross contamination and of fraud in the blending process. Appropriate technology was now available that met all the requirements of microscopic identification and estimation of constituents of animal origin in feed. It was now possible to detect whether animal protein was present in feed containing fishmeal. The representative of Iceland urged the European Communities to reconsider the current ban and to allow the use of fishmeal in feed for ruminants.

77. The representative of Peru asked the European Communities to take into consideration the damage this measure caused to developing countries such as Peru. Fish meal was one of Peru's main export products. Chile also shared the concerns of Norway, Iceland and Peru.

78. The representative of the European Communities noted that the Commission had always accepted that there was not a scientific basis to this measure. It was introduced as a control measure to prevent fraud and cross contamination. However it had not had serious consequences on trade. The measure was modified to allow for continued use of fishmeal for poultry and pigs. The ban was

only applied to feed for ruminants which was only about three per cent of the market. While the countries concerned had lost one market, they had managed to secure the market for pig and poultry feed. The Commission had researched the test which allowed discrimination between protein of mammalian origin and protein of fish origin in meal. That test removed the main technical scientific barrier to the lifting of the measure; however, it remained very sensitive. The European Communities had succeeded in restoring consumer confidence in the safety of beef. European Consumers did not think that cattle ate fishmeal and the Commission was concerned about reopening that particular dimension of the dossier. The representative of the European Communities hoped to be able to report progress in the next Committee meeting.

(c) Consideration of Specific Notifications Received

Japan's laws on Safety Insurance and Quality Improvement of Feed and Standards for Feed and Feed Additives (G/SPS/N/JPN/128)

79. The representative of China raised concerns that Japan's revision of standards for Astaxanthin lacked scientific justification. China was not aware of any evidence of harmful effects and asked if Japan had found Astaxanthin harmful to fish at certain levels.

80. The representative of Japan stated that scientific data was insufficient and that no international standards had been established so far. Some Members had regulations to restrict the maximum dose of Astaxanthin to be administered to finfish. Therefore, as a provisional measure, Japan had set an upper limit for Astaxanthin, which was added to feeds, based on SPS measures applied by other Members. Japan had taken into account the technical and economical feasibility when deciding the upper limit. Japan was willing to reconsider its regulation when new international standards or scientific evidence on this issue were presented.

(d) Information on Resolution of Issues

81. The Secretariat explained that document G/SPS/GEN/204/Rev.5 was now separated into four parts. Each part was a separate Word document, which facilitated searching through the text. Part I was the overview that provided a number of summary tables and charts. Part II contained all the issues which had either been raised for the first time in 2004 or have been previously raised or previously raised and further discussed in 2004, including where resolution had been reported in 2004. Part III contained issues that were not discussed in the meetings of 2004 and for which no resolution had yet been reported. Part IV contained those issues where a resolution was reported prior to 2004.

Japan – Restrictions on imports of mangoes

82. The representative of Brazil informed the Committee that on 29 September 2004, Japan modified its phytosanitary regulations and established specific norms for the import of mangoes from Brazil. In December 2004, Japanese inspectors went to Brazil to examine packing houses. On 12 January 2005, the first shipment of Brazilian mangoes was exported to Japan, which marked the beginning of a regular flow of exports of mangoes to Japan. To date, eight shipments of mangoes (variety Tommy Atkins) had been exported without restrictions.

83. The representative of Japan noted that the measure was taken through the appropriate pest risk assessment process based on technical data submitted by Brazil. He thanked the Brazilian authorities for their efforts to resolve this issue in a technical manner.

China – Measures on US poultry

84. The representative of the United States recalled that, in the past, China had not recognized regionalization with respect to avian influenza, which had adversely affected US poultry exports to China. Since the last committee meeting in October, China had taken actions and the issue had been resolved.

Korea – Septoria controls on horticultural products

85. The representative of the United States reported that this issue had been resolved. The representative of Korea noted that a satisfactory solution had been found in technical meetings.

IV. OPERATION OF TRANSPARENCY PROVISIONS

86. The Chairman drew Members' attention to the documents circulated by the Secretariat to enhance transparency within the context of the SPS Agreement. These included the most recent list of National Notification Authorities contained in G/SPS/NNA/8 and G/SPS/NNA/8/Add.1, the most recent list of National Enquiry Points contained in G/SPS/ENQ/18 and G/SPS/ENQ/18/Add.1, an update of Members' implementation of the transparency provisions contained in G/SPS/GEN/27/Rev.13 and notifications received since the last meeting of the SPS Committee summarized, on a monthly basis, in G/SPS/GEN/532, G/SPS/GEN/534, G/SPS/GEN/536, G/SPS/GEN/541 and G/SPS/GEN/541/Corr.1.

87. The Secretariat reported on the status of its development of a database of SPS documents. The database would contain information on notifications, specific trade concerns, enquiry points and national notification authorities, dispute settlement reports, technical assistance activities and membership in international standard-setting organizations. Funds had been allocated specifically for the development of the database, in collaboration with the FAO International Portal on Food Safety and Animal and Plant Health, the Secretariat had developed a technical specification document. A consultant would work with the SPS staff and with the WTO information technology group to create the structure of the database and the user interface. This first stage would take several months; the next step was to explore ways to efficiently enter the necessary documents and information into the database.

88. The Secretariat expressed appreciation to the FAO staff who had assisted with some of the concept and planning of this document management system. The project in the first phase would be for internal use by the Secretariat. The intention was to make the database available for Members' use in a second phase, due to the amount of documents to be handled and security concerns.

89. The representative of Malaysia drew attention to Members' interest in the development of this database. Members needed to be kept informed about the developments so that they would be able to fully use the database when available.

90. The Secretariat encouraged Members to submit their notifications and any documents to be circulated to the Secretariat by e-mail since this facilitated the processing of notifications and other submissions.

91. The representative of Kazakhstan submitted an information document on its implementation of the transparency requirements of the SPS Agreement (G/SPS/N/GEN/544).

V. IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT

(a) Chairman's report on the informal meeting

92. The Chairperson reported that the Committee had held a very positive and pragmatic discussion on special and differential treatment (S&D), with broad-based and constructive participation. Three items were discussed during the meeting: (1) the Secretariat's background paper (G/SPS/GEN/543); (2) the proposals on special and differential treatment referred to the SPS Committee by the General Council and; (3) Members' experience under the procedure to enhance transparency of special and differential treatment in favour of developing country Members, adopted by the Committee in October 2004 (G/SPS/33).

Background Document G/SPS/GEN/543

93. The Secretariat had presented the background document as a basis for discussion of the S&D proposals. The first part of the document reproduced the various proposals for ease of reference. The second part provided a summary of the main points made in previous discussions of these proposals in various meetings of the Committee on Trade and Development (CTD). The third part of the document provided information on various developments with respect to technical assistance and S&D-related projects undertaken by the WTO Secretariat, Members and other relevant international organizations. These developments addressed, in part, some of the concerns raised in the S&D proposals.

Proposals referred by the General Council

94. The Chairperson had given a brief report on engaging and useful informal consultations he had held on the proposals on S&D treatment since the last meeting. In this regard, he had noted that all Members showed a desire to focus on a successful, results-oriented outcome, although there appeared to be an expectations gap.

95. A number of Members had shared the view that the most effective way to address the concerns underlying the proposals was to enable developing and least developed country Members to fully make use of the existing provisions of the SPS Agreement rather than to modify the text of the Agreement. While others had agreed that modifications of the text of the Agreement should only be considered if absolutely necessary, they had stressed the mandate from Doha to ensure that the S&D provisions were made precise, effective and operational. It had been suggested, therefore, that the focus of the Committee should be on the development of clarifications, guidelines or interpretations as needed to ensure the implementation of the S&D provisions.

96. One Member had noted that some of the S&D proposals seemed to assume that SPS measures were introduced by other Members with the objective of restricting trade, whereas these measures were, as required by the SPS Agreement, taken only when needed to protect health. In this context, some of the proposals were untenable. For example, paragraph (d) of the African Group's proposal on Article 9.2 implied that before putting any SPS measure in place, a Member would have to assess the potential impact of the measure on a very large number of possible suppliers. Should even one such assessment be adverse, the Member would not be able to implement the measure until the least prepared supplier would be able to comply with the new measure. This would result in an unacceptable delay of perhaps several years before implementing an SPS measure needed for health protection.

97. A Member had questioned the ability to assess the impact of SPS measures on other Members, in particular on those Members that had not yet established an enquiry point. This example

showed the need to assist developing and least developed country Members to fully comply with current provisions of the SPS Agreement for their own benefit as well as that of their trading partners.

98. Another Member had noted that many developed Members already conducted internal impact assessments of potential effects on domestic producers, so it was only a question of expanding the scope of these assessments. Furthermore, the S&D proposals should not be considered on a "take it or leave it" basis, but rather as inputs for discussion. Although the second part of paragraph (d) of the African Group proposal on Article 9.2 might be difficult to implement, the first part was feasible if the impact assessments included only major suppliers.

99. One Member had been of the view that the request for an impact assessment stemmed from a perception of a lack of transparency, although the existing notification process provided an efficient way of becoming informed of new SPS measures being considered and for an exchange of comments on specific measures prior to their implementation. Members' basic obligation to notify an enquiry point and a national notification authority constituted tools for a useful and necessary information flow.

100. Another Member had underlined the importance for developing countries to develop the capacity to incorporate international standards into their domestic regulatory practices, which would facilitate compliance with the SPS requirements of trading partners.

101. Several Members had shared the view that, as existing S&D provisions were not fully used and as the Committee had no information on how Members were implementing the Agreement's provisions on S&D, the Committee should establish a mechanism to monitor the implementation of the S&D provisions. Several Members had also observed that the procedure in G/SPS/33 provided a first step to document the implementation of the S&D provisions of the Agreement.

102. Several Members had given concrete examples of how they currently operationalized the S&D and technical assistance provisions of the Agreement. It was suggested that both the multilateral route (e.g., the STDF; modes within the World Bank study on the challenges and opportunities for developing country exports posed by SPS standards) and the bilateral route of specific technical assistance projects, were valid options to address the underlying concerns in these proposals

103. The Secretariat had noted that there appeared to be no disagreement that Members had a sovereign right to take measures they considered necessary for the protection of health. Furthermore, there was widespread understanding of the fact that many developing country and least-developed country Members found it difficult to benefit from the provisions of the SPS Agreement and faced difficulties in meeting the SPS requirements of other Members. This was often due to lack of resources, including of sufficiently trained personnel and of technology, and lack of knowledge of how to obtain specifically targeted technical assistance. The Secretariat had identified some questions the Committee might need to address in order to make further progress on the proposals. These questions included how to ensure that Members systematically took account of developing countries' needs; how these needs could be properly identified and by whom; and how a developing country Member could identify the specific technical assistance it might need to meet a new requirement. Other issues the Committee might address included how developing and least developed countries could make the best use of technical assistance already available and how to make technical assistance more effective.

104. Some Members had called for developed country Members to be creative and put counter-proposals on the table.

105. The Chair had concluded that the discussion in the informal meeting had been pragmatic and helpful. He had noted that he might need to consult with Members prior to the June meeting of the

Committee in order to advance this issue sufficiently for the Committee to provide the requested recommendations to the General Council at its meeting on 27-28 June 2005.

Members' experience under the new G/SPS/33 procedure

106. The representative of the European Communities had noted that the recent addendum to its notification on the implementation of its new procedures for wood packaging materials (G/SPS/N/EEC/221/Add.3) included, in part, special and differential treatment due to concerns raised by developing country Members. However, because many of the comments had been received at a late stage in the development of this regulation, it had been very difficult to take them into consideration. Members were encouraged to ensure that they submit their comments in a timely manner, when a proposed measure was initially notified.

(b) Issues related to Special and Differential Treatment

107. In the discussion following the Chairman's report of the informal meeting, the representative of India stressed that developing countries did not question the right of Members to maintain SPS measures aimed at achieving an appropriate level of protection for plant, animal and human health. The proposals were submitted in a positive spirit, to enable developing country Members to implement the provisions of the SPS Agreement by complying fully with its provisions. There could be no denying that SPS measures, while aimed at ensuring food safety, plant and animal health protection, impinged on market access opportunities of Members. The problem became especially acute when measures were frequently modified, constraining export opportunities of developing country Members. The proposals, therefore, intended to ensure a commitment from developed country Members to extend S&D treatment and technical assistance to developing countries so as to enable them to meet the SPS requirements without being handicapped in their export efforts. While India noted the efforts being made by some developed country Members to provide technical assistance and S&D treatment in the SPS area, the multilateral obligations in the SPS Agreement remained best endeavour clauses. This was the genesis of the Doha mandate on S&D treatment and the proposals by some Members.

108. The background document (G/SPS/GEN/543) helped Members recollect the state of play on this issue. First, as reported, a number of Members expressed the view that it was necessary to make S&D provisions more effective, user friendly and profitable. It was clear that a number of Members, who were not proponents of the specific proposals, recognized the necessity for making SPS provisions in favour of developing countries more precise, effective and operational. The representative of India stressed that the whole Committee, the whole WTO membership, party to the Doha mandate, were the proponents, although some Members had facilitated the work towards implementing the Doha mandate by coming out with specific proposals. Therefore, India requested all Members, and especially developed country Members, to come forward with specific comments on the proposals made by some Members or put forward their own proposals with a view to addressing the Doha mandate as reiterated in the July Framework decision.

109. The representative of India further stated his disagreement with comments by some Members that making some provisions mandatory would not serve the purpose. Making best-endeavour provisions mandatory would go a long way in addressing a number of concerns. Although everyone could agree on the need to increase the use of the existing provisions, this had little meaning for provisions that were only best endeavour in nature.

110. With regard to the concern raised by some Members that making provisions mandatory would imply that a Member's right to implement scientifically justified SPS measures would become conditional and not automatic as provided in the SPS Agreement, the representative of India observed the tendency of certain Members to go ahead with the implementation of measures that were not

backed by risk analysis and a reasonable level of risk. A scientific basis had to be supplemented with a reasonable or appropriate level of risk for a measure to be compatible with the SPS Agreement. Many of the barriers faced by developing countries resulted from some Members implementing measures which were either not based on scientific evidence or, when based on scientific evidence, sought to achieve an unreasonable level of protection. The ability of certain Members to raise their standards higher because of their own higher level of economic and scientific development limited exports from developing countries.

111. The representative of India proposed that the Committee respond with urgency to the Doha mandate on S&D operationalization and to the specific request by the General Council to meet the deadline set in the Framework Agreement. Rather than making general statements on the S&D issue, Members should suggest specific amendments to the specific proposals put forward or table specific proposals of their own. The representative of Cuba supported India's declaration.

112. The representative of Canada noted that his understanding of the African Group's proposal for Article 9.2 differed from India. His understanding of that proposal was that if all Members who import did not provide technical assistance to each and every developing country Member interested in exporting to that country, then it must immediately and unconditionally withdraw the measure. It was recalled that such measures were to be put in place to protect human, animal and/or plant life and health. If it did not do so, that importing Member, including developing country Members, would be required to compensate all developing exporting country Members for any loss resulting directly or indirectly from the measure. The representative of Canada had similar preoccupations with the African Group's proposal for Article 10.1. Constructive discussions like those which took place in the informal meeting provided a more practical and effective means to move forward.

113. The representative of the United States agreed with the statement of Canada. Proposals such as that of the African Group on Article 9.2 would create a significant conflict with Article 2.1 of the SPS Agreement. The Doha mandate set out important objectives and activities for the Committee, and to a certain extent it represented a turning point. The representative of the United States observed that some of the proposals dated back as far as the Seattle Ministerial, and it might be helpful to reconsider some of these very early proposals in the light of Doha and more recent advances on this matter.

VI. EQUIVALENCE (ARTICLE 4)

114. The representative of the Codex Alimentarius Commission (CODEX) highlighted the work undertaken last December by the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICs). The CCFICs had reviewed the proposed draft appendices to the guidelines on the judgement of equivalence and prioritized three objectives. These were: (i) the determination of the specific documentation to be submitted for the evaluation as part of the request for equivalence determination; (ii) the determination of what could be considered as an "objective basis for comparison" for sanitary measures; and (iii) the elaboration of details on the process of judging equivalence.

VII. PEST AND DISEASE-FREE AREAS (ARTICLE 6)

(a) Report of informal meeting

115. The Chairperson reported that at the informal meeting on the clarification of Article 6 the Committee's discussions had centred around the proposals submitted by Chile (G/SPS/W/171) and Australia (G/SPS/W/172).

116. The representative of Chile had proposed that the SPS Committee develop administrative guidelines and suggested four actions to further discussions while at same time providing mechanisms

to implement Article 6. These actions were to invite Members to respond to the Chairperson's previously circulated questions as a basis for discussions; that the Committee await the result of discussions in the IPPC (7th IPCM meeting) and OIE (73rd General Session) before further discussing the development of guidelines; the development of a notification format for Members to indicate when recognition of pest- and disease-free areas was provided; and the inclusion of a standing agenda item for Committee meetings with two additional sub-items on regionalization. Chile was of the view that the last two actions could be implemented immediately.

117. The representative of Australia had proposed that the Committee seek clarification from the IPPC and OIE by submitting specific questions to these organizations to be taken up in their respective meetings in April and in May. The responses from these organizations, plus the discussions in the proposed June workshop, could assist the Committee in its deliberations on the implementation of Article 6.

118. Members had indicated broad support for the two proposals and suggested that a practical solution was to be found in the combination of the two proposals. However, several issues were highlighted during the discussions. These included the frustrations and impatience of Members with the practical difficulties in implementing Article 6; divergent views over the issue of administrative guidelines and criteria; and concerns about the respective roles of the international standard-setting bodies and the SPS Committee.

119. A number of Members had proposed that the Committee work on the elaboration of general administrative guidelines, without details about timeframes and procedures. Members needed further clarification on Article 6 for its practical implementation. The Committee could proceed to establish general guidelines to trade-related issues while the IPPC and OIE focused on the technical issues.

120. Some Members had supported the proposal to submit questions to the IPPC and OIE as their responses would help the Committee to determine gaps and overlaps in the work of the Committee and in the work of these organizations. Those areas not covered by these organizations, particularly the trade-related aspects, should be taken up by the work of the Committee. Members had reiterated their agreement that duplication of work in the Committee and in these organizations should be avoided.

121. Several Members had considered that the Committee should await the responses from the IPPC and OIE to the Committee's questions before proceeding to develop guidelines. The contributions from the IPPC and OIE could assist to better design any guidelines the Committee might decide to develop. One Member had observed that while the problems that Members experienced with the implementation of Article 6 appeared to be trade-related, the root of the problem was often related to plant or animal health. Another Member had noted that the OIE and IPPC have different approaches in dealing with regionalization and therefore it would be difficult for the Committee to develop prescriptive guidelines.

122. One Member had noted that as the SPS Agreement allowed Members to set standards higher than those set by international standard-setting organizations, the Committee should proceed with the establishment of administrative guidelines.

123. Another Member had suggested that the Chairperson's questions plus the inclusion of this issue on the agenda of the Committee meetings would be a preliminary step to addressing this issue which could eventually lead to establishing more specific guidelines. It was clear that there were divergent views on the specificity of the administrative guidelines and on the sequencing of work in this Committee and in the international standard-setting bodies.

124. The Chairperson had proposed that: (1) the Committee submit specific questions to the IPPC and OIE based on those in the Australian proposal, in time for consideration at their respective upcoming meetings; (2) Members be encouraged to respond to the Chairperson's questions; (3) the issue of regionalization be included as a standing agenda item for Committee meetings; and (4) a workshop be organized in June to discuss the issues in more depth. The Chairperson had proposed that a draft work programme, and of the questions to be submitted to the IPPC and OIE, be circulated for consideration at the regular meeting of the Committee.

125. The Chairperson reported that Members were in broad agreement with the proposal, but some were concerned that the Committee continue to address the issue of establishing general administrative guidelines. It was suggested that the Secretariat assist in drafting these guidelines.

126. At the informal meeting, the OIE had explained that regionalization (zoning and compartmentalization) was an integral part of the work of the OIE, and was considered with respect to each particular disease, depending on the biology of the disease. The Terrestrial Animal Code Commission had also drafted a revised chapter on the principles of zoning and compartmentalization. This revision incorporated the suggestions of the SPS Committee and was proposed for adoption at the next General Session in May 2005. The OIE was amenable to further addressing the Committee's concerns at the General Session. The OIE was also working to harmonize its approach on regionalization with that of the IPPC, and this issue would be discussed at its next General Session.

127. The representative of the IPPC had reported that the ICPM had taken further steps in considering the issue of regionalization, as outlined in G/SPS/GEN/529. This issue was on the agenda for the next ICPM meeting, 4-11 April 2005. The ICPM had not yet considered the issue of administrative timeframes and recognition of pest-free areas but if the Commission agreed, an open-ended working group would be established to consider this matter. The OIE and SPS Secretariat were invited to attend the April meeting. The SPS Committee was invited to submit questions for clarification at the next ICPM meeting but should note the meeting was only a few weeks away. The next ICPM Session would decide further actions and the follow-up work programme. The IPPC would report on its discussion on regionalization at the SPS Committee meeting in June.

Official OIE Recognition of Disease-Free Status

128. At the informal meeting, the representative of the OIE had described the OIE procedures for official recognition of member countries' health status with respect to four diseases: foot and mouth disease (FMD), rinderpest, contagious bovine pleuropneumonia and bovine spongiform encephalopathy (BSE). Applicant countries had to demonstrate their compliance with all the relevant provision of the Terrestrial Code and Manual with respect to the disease for which free status was sought, either of the whole country, or for a zone or compartment within the country. The OIE could make available the dossiers of the applicant country, which could permit WTO Members to decide whether to accept the OIE official recognition of the status of any particular zone. Although the OIE relied extensively on documentation provided by the member country seeking official recognition, the OIE also considered unofficial sources of information. An *ad hoc* group established by the Scientific Commission usually questioned representatives from the applicant country. Furthermore, the report of the Scientific Commission was circulated to all Member countries for a 60-day comment period. It was possible that the application be rejected by the International Committee. Once official recognition was given, the OIE considered this to be equivalent to an OIE standard. However, a recognized member country was required to submit information every year to document its maintenance of its disease-free status.

(b) Discussion of the draft work program

129. The representative of Paraguay stated that the work programme proposed by the Chair failed to reflect some of the concerns expressed in the informal meeting. Members' request that the Committee draft general guidelines on regionalization was not conditional on holding the proposed June workshop nor on any consultations with the international standard-setting organizations. Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Peru and Uruguay supported the view that the main purpose of a work programme was the elaboration of guidelines and it was for Members to discuss how general or how specific the guidelines should be. They suggested that the Committee should begin work on general guidelines without delay.

130. The representatives of Australia, Canada and the United States indicated that they could accept a work programme which provided for the "possible" elaboration of general guidelines. The United States remained firmly convinced that the international standard-setting bodies had the primary responsibility as well as the technical capacity for developing guidelines on regionalization. Furthermore, the international standard-setting bodies had demonstrated their responsiveness to the concerns of the SPS Committee in the past. The responsibility of the Committee would be to identify gaps or other problems for the international standard-setting bodies to address as needed. The representative of the United States expressed doubts that the Committee could develop over-arching guidelines that would be of assistance to Members over and above what the IPPC and OIE could provide. Nevertheless, the United States was willing to adopt the proposed work programme in the spirit of moving the issue forward. The United States also sought clarification on the types of issues that would be raised under the Specific Trade Concerns agenda item should regionalization be included as a standing item of the agenda of the Committee.

131. The representative of Australia stressed that any guidelines to be elaborated should be broad and general. Although quick progress was being made in addressing the practical implementation of Article 6, Members needed time to consult with their capital.

132. The representative of the European Communities noted that the Chairperson had previously invited Members to provide practical examples of regionalization as a way of progressing this issue. Members' submissions to date had not addressed practical issues. She also sought clarification on what avenue to use when raising concerns over the lack of recognition of regionalization as there was already an Agenda item, Specific Trade Concerns, accommodating these concerns. Although the European Communities had no objections to the drafting of general administrative guidelines by the SPS Committee, it was concerned that this not result in delays in achieving the practical implementation of Article 6.

133. The representative of Japan stated that his country could accept the draft work programme with the proposed amendments but opposed the inclusion of working on specific time frames and guidelines. The representative of Chile noted that his government's suggestion that the Committee consider the inclusion of specific timeframes in any guidelines had been put forward only as a possibility to be considered by the Committee, not as a definitive proposal.

134. The representative of the OIE stated that some of the issues raised in the draft work programme were addressed in the OIE's revised chapter on zoning and compartmentalization as outlined in G/SPS/GEN/552. The SPS Committee was invited to comment on the revised guidelines. Furthermore, the OIE published on its website the official recognition of Member's animal health status as well as information on regionalization and zoning with regards to Member's animal health status of various diseases.

135. The representative of the IPPC stated that the ICPM would meet on 4-7 April 2005 and would address some of the concerns expressed by the SPS Committee.

136. The Chairperson remarked that Members' divergent views on whether the Committee should develop guidelines on the implementation of Article 6 had been apparent since the previous Committee meetings. He had proposed a work programme with the hope that this would allow the Committee to make some progress relating to the implementation of Article 6 while leaving open the issue regarding eventual guidelines. However the Chairperson concluded that there was no consensus in the Committee to adopt the draft work programme.

VIII. UNDUE DELAYS

137. The representative of Uruguay drew attention to documents G/SPS/W/160 and G/SPS/W/169 which outlined Uruguay's frustrations and concerns over delays experienced by their agricultural exporters due to excessively slow decision making, exaggerated information requirements and bureaucratic and non-transparent administrative procedures. These actions created uncertainty and potential economic harm. The lack of specificity in the SPS Agreement, as well as the absence of relevant international guidelines with regards to these issues, meant that the only recourse available to affected Members was the WTO dispute resolution procedure. In order to create more predictability and legal certainty in the trading environment, Uruguay proposed that the SPS Committee discuss "undue delays" in the context of Articles 4, 5, 6 and 8 of the SPS Agreement. Following the Committee's discussions, the international stand-setting bodies could be requested to develop specific relevant guidelines.

138. Many Members expressed support for Uruguay's proposals. The representative of Chile noted that the issue of undue delays was a cross-cutting issue affecting all operational aspects of the SPS Agreement. The United States suggested that discussions on undue delays would be enhanced if Members gave practical examples of the delays they have encountered with respect to Articles 4, 5, 6 and 8. Several Members supported the suggestion of Canada that discussion of undue delays be included in the work programme emanating from the Review.

139. The representative of India commented that "reasonable period of time" must first be defined and that this was to be determined on a case-by-case basis. Furthermore, undue demands for information should also be addressed by the Committee.

IX. TECHNICAL ASSISTANCE AND COOPERATION

(a) Information from the Secretariat

140. The Secretariat reported that since last October, the Secretariat had provided training for regional workshops in Bangladesh and Singapore and a national workshop in Tonga. There were six regional activities scheduled for 2005, and national activities planned for Chinese Taipei, India and Lesotho. In addition, a new initiative financed by the STDF and in collaboration with the OIE would address the problem of high turn-over of staff within governments as this also affected the work of the standard-setting organizations. The first part of the project was to produce a training pack for new delegates and provide additional training within the regional workshops. Members, interested in holding a national workshop, were reminded to communicate their request to the Director of Technical Cooperation.

141. The Secretariat also reported that the STDF was coordinating its activities with the Joint Technical Assistance Program (JITAP) to carry out a programme to strengthen reference centres and national enquiry points in sixteen African countries as well as conducting a training of trainers course. In addition, the United Nations Industrial Development Organization (UNIDO) and the WTO had formed a strategic partnership for the purpose of implementing the Doha Development Agenda and ensuring that developing and least-developed countries were integrated into world trade. An update of the activities undertaken by the two organizations was described in document JOB (05)/28.

142. The Secretariat drew attention to document G/SPS/GEN/545. The integrated framework (IF) was a process that aimed to provide a coordinated response to technical assistance activities for LDCs. The Diagnostic Trade Integration Study (DTIS) was one of a four-part process of the IF and its purpose was to identify constraints to traders in sectors of greatest export potential. The document described where SPS issues have risen within the DTIS of selected countries, but it was not an exhaustive identification of SPS needs. The Secretariat was working with the World Bank and its STDF partners to address identified needs.

143. The Secretariat also gave an update on the STDF. With regards to financing, Denmark, France, Netherlands, and the United Kingdom had contributed to the STDF budget, and donations were pledged by Canada. Document G/SPS/GEN/523 provided information on the projects that had been supported by the STDF. The next deadline for receiving proposals for STDF projects was 1 July 2005.

144. The Secretariat reported that the WTO Training Institute would offer a specialized trade policy course on the SPS Agreement from 31 October to 11 November 2005 in Spanish. It was the intention of the Secretariat to subsequently offer this course also in English and in French.

145. The Chairperson noted that 67 Members had not notified the WTO of any changes to their SPS regulations and that 104 Members had notified 10 or less notifications since 1995. He asked what types of technical assistance was available from the WTO to facilitate the establishment of enquiry points in Members. The Secretariat observed that the issue of transparency was covered systematically in the technical assistance activities provided by the Secretariat. Between the period 1995-2004, the Secretariat had undertaken 36 regional workshops and 34 national workshops on the SPS Agreement, including transparency. General training on notifications were provided by other divisions as well. In addition, a project was being funded by JITAP and STDF on model methodologies for national SPS enquiry points to improve coordination between government departments as well as the Codex, OIE and IPPC national contact points.

146. The representative of Pakistan asked how success of a particular technical assistance activity was measured. The Secretariat replied that a performance evaluation form (PEF) was completed by participants at the end of every activity. However, for the longer term impact, it was incumbent on the participants themselves to apply the acquired knowledge. The specialized SPS course would try to address this issue by requiring participants to develop a project that they could implement upon their return to their countries.

(b) Information from Members

147. The representative of the European Communities reported on its upcoming training course on aflatoxins for developing countries. Problems with contaminants, particularly aflatoxins continued to occur frequently, adversely affecting international trade. To assist developing countries improve their food safety standards and thereby facilitate international trade and improve their export capacity, the European Communities had organized a training course on 3-12 May 2005 in the United Kingdom. The course was designed for laboratory specialists, and training on the EC legislation as well as on advanced laboratory skills would be provided. The European Communities had also recently sent two EC experts to Bolivia to audit the Bolivian system of certification for exports of Brazil nuts to the European Communities, and to provide technical advice to help Bolivia comply with the SPS measures in their export markets.

148. The representative of Jamaica reported on the regional workshop on the SPS Agreement held in Kingston, Jamaica, on 16-18 February and on the IPPC workshop on the practical application of ISPM 15 held in Vancouver, Canada, 28 February to 4 March. The SPS workshop was organized by the WTO, the Inter-American Development Bank Institute for the Integration of Latin America and

the Caribbean, CARICOM and the Jamaican Ministries of Agriculture and Foreign Affairs. Sixty participants attended from 14 Caribbean countries. Representatives from the Caribbean Regional Organization for Standards and Quality, the FAO, OIE, Codex, IPPC and IICA also participated. The workshop covered the main areas of the SPS Agreement in the form of presentations, general discussions, group work and case studies. One of the recommendations emerging from the workshop was the need for establishing MRLs for non-traditional crops, and participants were urged to highlight this concern in the international arena. Participants considered the workshop to be very informative and timely.

149. The IPPC workshop aimed to: provide information and guidance to national plant protection organizations (NPPOs) to implement ISPM 15; facilitate the discussion and analysis of difficulties NPPOs faced in the implementation of the standard; and build consensus on how implementation issues might be resolved in a consistent manner worldwide. One hundred and seventy-five participants representing 85 national governments attended the workshop. Funding for the workshop was provided through the STDF, the Canadian Government and the packaging industry of several countries. Presentations were made by representatives of countries that had implemented ISPM 15 or were compliant with export requirements of countries that had implemented ISPM 15, the IPPC and the wood packing industry. Important linkages were established between the various countries and industry representatives and the workshop was considered very useful and practical.

150. The representative of New Zealand drew attention to document G/SPS/GEN/352/Rev.1 which provided updated information on New Zealand's technical assistance activities. In particular, attention was drawn to the heat treatment facility in Tonga and the phytosanitary capacity building project in the Mekong region. Phase 1 of the phytosanitary capacity building project in the Mekong region had funded the installation of national phytosanitary databases as well as the establishment of national plant protection organizations in Cambodia, Laos, Myanmar and Vietnam. NZAID was currently working on the design of Phase 2, which would focus on developing SPS legislation in each country. The overall goal of the project was to enhance plant protection capacities in the Mekong region in order to reduce crop losses and poverty while promoting trade and rural income generation. NZAID was coordinating with AUSAID to design similar projects for other countries.

151. The representative of China expressed appreciation to the WTO, the United States and Australia for providing training to Chinese officials on SPS issues. The Chinese Ministry of Foreign Affairs and ASEAN Secretariat had sponsored a training course in Beijing on 4-14 December on pest risk analysis for 26 representatives from 9 ASEAN countries.

152. The representative of Japan reported that 2,695 trainees in the field of agriculture, fisheries and forests were accepted from 115 countries during 2003. A further 569 Japanese experts were dispatched to 62 countries through the Japan International Co-operation Agency (JICA). A seminar had also been conducted for administrative officers engaged in food sanitation in the ASEAN countries. In addition, Japanese expertise was lent to Thailand for the operation of heat treatment facilities and diagnostics of avian influenza. Japan was also collaborating with the FAO for the provision of emergency ground aid for the prevention of avian influenza. Furthermore, Japan had made contributions to the OIE to conduct seminars and training courses in Asia on BSE and other infectious diseases such as FMD.

(c) Information from Observers

153. The representative of the IPPC stated that technical co-operation was provided through the FAO plant protection project. Most of the projects financed by FAO had a duration of 2 years and a budget up to US\$400,000. Currently, phytosanitary capacity building projects were being provided to several countries, including projects on surveillance, containment and identification of phytosanitary options on certain types of fruit flies in several African countries. The IPPC was also assisting

Bahrain in the execution of a unilateral trust fund for phytosanitary capacity building. In addition, the IPPC had sponsored a workshop on the practical application of ISPM 15 in Vancouver. A series of workshops to build capacities for countries to participate in the information exchange program through the international phytosanitary portal were also being conducted.

154. The representative of Codex reported on the FAO/WHO Trust Fund for enhanced participation in Codex, which was launched in 2003 and became operational in April 2004. The Trust Fund was intended to further the improvement of global public health and food security by promoting the provision of accessibility to safe and adequately nutritious food, and thereby contributing to the reduction of food-borne diseases. This objective would be realised by helping regulators and food experts from developing countries participate in the international standard-setting work of Codex. During 2003-2005, the Trust Fund received a contribution of approximately US\$2.7 million from donors. Ninety participants representing 75 countries benefited from the Trust Fund in 2004. As a follow up to this project, the FAO/WHO was planning to hold an informal meeting of both donor and beneficiary countries in conjunction with the 28th Session of the Codex Alimentarius Commission in July 2005.

155. The representative of the ITC recalled the distribution in 2004 of the joint ITC/Commonwealth Secretariat publication on Influencing and Meeting International Standards: Challenges for Developing Countries, Volume 1. The second volume had been published and would soon be distributed to WTO Geneva-based Missions and the National SPS/TBT Enquiry Points of WTO Members. In addition, a regional workshop on the business implications of the SPS Agreement was organized for the private sector in Cairo under the World TradeNet program in 2004. The ITC had also organized two EC-sponsored national workshops on the significance of the SPS Agreement for businesses in Bangladesh.

156. The ITC/Commonwealth Secretariat would also conduct a workshop on standards on 22-23 June 2005 in Geneva. The joint ITC/Commonwealth publication would be used as a reference for the workshop. The workshop intended to review and implement the recommendations outlined in the publication. Participants from 24 countries would be invited along with officials from the Geneva-based Missions of selected countries, international standard-setting bodies, the WTO, UNCTAD, and the World Bank. The ITC would also participate in two regional workshops on the SPS Agreement organized by JITAP. The first workshop would be held on 19-21 July in Zambia for English-speaking countries while the second workshop would be held in November in Mali for French-speaking countries.

157. The representative of the OIE noted that its technical assistance activities for 2004 and 2005 were detailed in document G/SPS/GEN/550. The OIE would continue to participate in the regional SPS workshops. The STDF funded project on Train the Trainers would kick-off with a pilot workshop organised by the OIE for regional representatives. Furthermore, a joint OIE/IICA project funded by STDF on the development of a veterinary capacity evaluation tool was underway in the Americas.

158. The representative of IICA drew attention to document G/SPS/GEN/549 which detailed IICA's technical assistance activities. The SPS Initiative of the Americas was focused on greater national implementation of the SPS Agreement and greater participation in the SPS Committee. The SPS Initiative would continue for 2005 but not as a permanent source of financing but rather a bridge to help countries build long-term sustainability in the implementation of the SPS Agreement. IICA continued to provide assistance to the Codex Committee for Latin America and the Caribbean and also provided support to the WTO regional SPS workshop held recently in Jamaica. Furthermore, IICA would be providing technical assistance to the WTO/SPS workshop which would be held in Central America, as well as assisting with the WTO's specialized course on the SPS Agreement.

Specific courses held in the Caribbean region on issues such as national quarantine, the SPS Agreement and on GAP were provided by the IICA.

159. The representative of Canada encouraged recipient countries of technical assistance to make similar reports to the SPS Committee. Recipient countries could report on whether or not the technical assistance activity provided to them fulfilled their expectations. This would assist in better articulation of technical assistance needs and in more effective technical assistance being provided.

160. The representative of St. Vincent and the Grenadines remarked that the IICA initiative and the SPS workshop held in Jamaica in February were of practical use to their officials. As a result of the technical assistance, St. Vincent and the Grenadines were able to establish their national enquiry point and notification authority and had submitted their first SPS notification in January 2005.

161. The representative of Peru commented that the IICA initiative had permitted experts from his capital to effectively participate in the SPS Committee meetings. The representative of Belize stated that the IICA initiative and the regional SPS workshop held in Jamaica had assisted Belize to better understand and implement the SPS Agreement. The representative of Colombia reported that IICA initiative had been a catalyst in bringing together the public and private sector to better address SPS issues. As a result, a project proposal to improve government policies related to SPS issues was soon to be approved by the World Bank. The IICA initiative had an impact in generating structural changes in the short and medium-term and strengthened SPS-related capacities.

162. The representative of Panama suggested that it would be useful to have a list of donors as well as a list of recipient countries of technical assistance. The representative of Honduras suggested that recipient countries also indicate how many people were trained over time. The IICA initiative and the Codex Trust Fund had assisted Honduras to access export markets. The representative of Ecuador supported Canada's suggestion that recipient countries report to the SPS Committee on the technical assistance received.

163. The representatives of Paraguay, Antigua and Barbados, Uruguay, Bolivia, Dominican Republic, Haiti and Venezuela commented on the effectiveness of the IICA initiative. Antigua and Barbados stated that a member of its SPS steering committee had attended the WTO/SPS workshop in Jamaica.

164. The Chairperson remarked that in light of the previous discussions and information sessions on technical assistance activities, the Committee should consider how it could ensure that future technical assistance activities were more effective and efficient. He encouraged Members to document their experiences and circulate this information prior to the Committee meeting to ensure more fruitful discussions on this issue.

X. MONITORING THE USE OF INTERNATIONAL STANDARDS

(a) New Issues

165. The representative of Mauritius drew the Committee's attention to the problems small developing countries faced with the implementation of ISPM 15, particularly the heat treatment requirements for wood packing material for export. Mauritius had already initiated a program for a heat treatment facility but required more time for the full implementation of ISPM 15. In this regard, Mauritius was seeking a 4 year moratorium for implementing the ISPM 15 guidelines from the IPPC and from those Members who had adopted the guidelines. Members were requested to give positive consideration to the use of phosphine fumigation treatment as an equivalent treatment during the interim period. The European Communities' efforts to take into consideration developing countries'

concerns as reflected in G/SPS/N/EEC/221/Add3 was welcomed and other Members were urged to show similar consideration.

166. The representative of China highlighted problems concerning the effectiveness of ISPM 15 in controlling pine wood nematode. A study conducted by a Sino-Korean research group in March 2003 on pine wood nematode disinfection by methyl bromide fumigation concluded that the nematode could not be effectively eradicated. This study was presented to the IPPC in April 2003 and in November 2004 for the IPPC's consideration for amendment of the methyl bromide fumigation index. The representative of the IPPC commented that a technical panel would be meeting during the week and would be considering the data submitted by China.

(b) Issues Previously Raised

167. There were no issues raised under this agenda item.

168. The Chairperson suggested that Members should make better use of the monitoring procedure when raising specific trade concerns that were relevant to this agenda item. The Secretariat stated that trade concerns raised under this agenda item or in other business were reflected in G/SPS/GEN/204.

XI. REVIEW OF THE OPERATION OF THE SPS AGREEMENT

(a) Report of Informal Meeting

169. The Chairperson reported that at the informal meeting on the review of the operation of the SPS Agreement, the Secretariat had presented document G/SPS/GEN/510/Rev.1. This revision of the background document included suggestions and issues raised by Members that had broad agreement in the October 2004 Committee meeting. In addition, it included updated information through the end of 2004 on notifications and specific trade concerns. Members had suggested that this document be further revised to include other issues raised in the context of the Review and a proposed work programme for the Committee.

170. The Committee's informal discussions on the Review had benefited from new submissions by the representatives of Argentina, Chile, China, and New Zealand. In the discussion on transparency, several Members had stressed the time requirements necessary to translate the texts of notified measures into non-official WTO languages, and recommended the comment period be extended.

171. The Chairperson reported that Members had emphasized the importance of seeking mechanisms to improve implementation of the existing transparency obligations. In this context, some Members were reluctant to support a recommendation that Members notify measures that complied with international standards. However, the representative of Canada had noted that notification of ISPM 15, while not officially required, provided essential information for trading partners seeking to avoid disruptions in trade. The Secretariat had recalled that neither the OIE nor the IPPC had a mechanism to capture information about the national application of international standards, and while the Codex had a notification mechanism, the mechanism was not used. Using the well-established and active SPS notification system to enhance transparency regarding the use of international standards could be an efficient option.

172. The Secretariat had noted that previous modifications to make the notification format more specific had led to improvements in the quality of the information submitted on these forms. The Committee might want to consider whether to include a box on the notification format that specifically indicated the comment period would be 60-days as of the date of circulation of the notification, and if not, request Members to identify whether a 60-day period was not provided because the notified measure was trade liberalizing.

173. The representative of Mexico had observed that although the recommendations by the Committee on transparency did not establish legal obligations under the SPS Agreement, they nonetheless could be taken into consideration in the context of dispute settlement.

174. The representative of Canada had suggested that clarification of the definition of measures and regulations to be notified could be addressed at the June meeting and included in the report of the Review, by reference to specific existing Committee recommendations on transparency as well as possible additional clarifications.

175. In the discussion on Article 8 and Annex C, the representative of the European Communities had drawn attention to the fact that the European Communities bore the high costs of undertaking inspections in third countries to verify compliance with EC requirements, whereas many other Members charged the interested exporting Member for such inspections. The new EC food and feed regulation included a provision by which third countries could be charged for the costs of inspection by the European Communities. The representative of the European Communities had suggested that the Committee discuss the possibility of developing common practices in this regard.

176. Commenting on the issue of enhanced use of the good offices of the chair, the representative of Australia recalled that the DSB and the international standard-setting bodies also included provisions to encourage conciliation and resolution of trade differences.

177. The Chairperson further reported that several Members had suggested that the Committee could, in the future, focus on clarifying the relationship among various articles of the Agreement, with priority placed on the examination of the relationship between Articles 2.1 and 5.6 relating to no more trade restrictive than necessary. It was noted that the work of the Committee would benefit from specific submissions from Members regarding their experiences and concerns.

178. Delegates had noted that by further clarifying the relationship between the Committee and the international standards-setting bodies, the Committee could avoid duplication of effort in the development of its work programme.

179. Delegates did not discuss proposals on special and differential treatment or regionalization as informal meetings on these two topics were held the following day. With respect to other topics in G/SPS/GEN/510/Rev.1 not covered by the four new submissions, Brazil had commented that the Committee's decision on the implementation of equivalence (G/SPS/19/Rev.2) could provide another mechanism through which the special needs of developing countries could be addressed. The representative of Djibouti had stressed the importance of differentiating between least-developed and developing country Members with respect to their need for special and differential treatment and technical assistance.

180. The representative of Uruguay had summarized the main points in G/SPS/W/169 regarding undue delays, emphasizing the need to broadly consider this issue in the context of SPS Agreement, rather than to confine discussion on this topic to a narrow subset of issues. Many Members had supported Uruguay's proposal to encourage discussion of this subject, and some had suggested this could most appropriately be done in the context of the Review.

181. In concluding his report, the Chairperson reminded the Committee that the first draft of the report of the Review was to be circulated by mid-April 2005, and Members were to submit their comments on this draft in writing by 10 June. The Committee was scheduled to adopt its report on the Review at the 29-30 June 2005 Committee meeting. A number of Members had suggested that the report should identify issues for further consideration by the Committee.

(b) Specific issues

182. The representative of China introduced document G/SPS/W/162/Rev.1. China supported the proposal that Members should notify all SPS measures, including those based on international standards. However, developing country Members should be given special and differential treatment in the form of extended time periods to adjust to or implement the international standards. In addition, more emphasis should be placed on Article 12.2 as a useful mechanism for Members to negotiate and discuss trade concerns without the need to resort to the long and costly dispute settlement mechanism.

183. The representative of Chile stated that document G/SPS/W/171 outlined Chile's position on what had been achieved and what should be done within the context of the Review process. Chile would prepare a working paper based on this document. With respect to the issue on the administration of the SPS Agreement, good progress had been made on drafting guidelines for equivalency, consistency, and monitoring of international standards. The drafting of guidelines for other principles should continue, but it was important that Members implement the guidelines as well. Chile expressed concern that Members could not learn from each other's experiences if no Member notified their experiences on equivalence.

184. The representative of Mexico recalled that good regulatory practices should also be considered under the Review process, and requested that Member's comments on the draft report be made known to other Members.

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

185. The Chairman indicated that an updated list of the relevant international standards of the OIE (G/SPS/GEN/552) and Codex (G/SPS/GEN/546) had been circulated for the consideration of the Committee.

(a) Information from Codex

186. The representative of Codex provided an update on the Codex sessions that had occurred since the last SPS Committee meeting as well as on the forthcoming Codex sessions (G/SPS/GEN/546). In particular, attention was drawn to the 22nd Session of the Codex Committee on General Principles, which would discuss the proposed draft working principles for risk analysis for food safety; the 28th Session of the Codex Alimentarius Commission, which would consider the request to initiate new work on developing principles for the application of traceability/product tracing in the context of food import and export inspection and certification systems; and the final report of the review of Codex committee structure and mandates of Codex committees and task forces which would be presented to the 56th Session of the Executive Committee and the 28th Codex Alimentarius Commission.

(b) Information from IPPC

187. The representative of the IPPC reported that the Standards Committee met on 8-12 and 15-19 November 2004 to consider country comments on draft standards, and submitted three standards to the ICPM for adoption. The Standards Committee had also established working groups and renewed specifications for new standards. At the last ICPM session, several technical panels were established. The technical panel for Phytosanitary Treatment met for the first time in December 2004. The technical panel for Forests and Quarantine Issues was currently meeting and would consider ISPM 15. With regards to information exchange, the International Phytosanitary Portal had been reviewed and a new version, now available in French and Spanish, was released on 28 September 2004. A series of

workshops would be conducted to familiarise Members with the Portal so that they could fulfil their reporting obligations to the IPPC.

188. During the past year, 10 countries had joined the IPPC and 20 countries had accepted the 1997 amendments. Altogether, there were 136 Member countries of the IPPC of which 74 Members had accepted the 1997 amendments. Once a further 17 countries adopted the 1997 amendments, the Interim Commission of Phytosanitary Measures would cease to exist. Instead a new Commission of Phytosanitary Measures (CPM) would be formed and unlike the current ICPM, membership would be limited to those countries that had signed on to the revised Convention as well as the original Convention. Members would have new obligations only when two thirds of the Members had adopted the revised Convention.

(c) Information from OIRSA

189. The representative of OIRSA summarised its technical assistance activities as outlined in document G/SPS/GEN/553. With regards to training and dissemination of information in agricultural health and trade issues, OIRSA had: organized a regional seminar in Guatemala on the traceability of animals and food of animal and plant origin; organized seminars in El Salvador on the monitoring of dairy products and good practices for the production of honey; and participated in the Regional Congress on Organic Production. OIRSA also supported the technological Master's degree programme in sanitary and phytosanitary measures of the Postgraduate College of Mexico as well as the National Programme for the Control and Eradication of Classical Swine Fever in El Salvador. Furthermore, OIRSA supported the IPPC regional workshop on the review of draft International Standards for Phytosanitary Measures (ISPMs) and provided computer equipment to strengthen the Nicaraguan and Costa Rican quarantine information systems.

(d) Information from OIE

190. The representative of the OIE drew attention to document G/SPS/GEN/552 which outlined the new or revised standards proposed for adoption at the 73rd General Session of the OIE to be held in May 2005. Of particular relevance to the SPS Committee was the OIE's proposal to revise the chapter on zoning or compartmentalization, which addressed many of the concerns of the SPS Committee, as well as its work on animal identification and traceability. The OIE working group on animal production food safety included two representatives from Codex to ensure that the work of the two organizations complemented each other. New procedures for disease notification for both terrestrial and aquatic animals were before the General Session.

XIII. OBSERVERS – REQUESTS FOR OBSERVER STATUS

191. The Committee agreed to invite the organizations with current 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.

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

XIV. ELECTION OF THE CHAIRPERSON

193. The Committee agreed to postpone the election of the Chairperson of the Committee until the next Committee meeting in June.

XV. OTHER BUSINESS

Paraguay – Report on status of animal diseases

194. The representative of Paraguay reported on the status of FMD, BSE, classical swine fever and Newcastle disease in Paraguay. With regards to FMD, Paraguay's eradication programme commenced in 1992. FMD outbreaks in 1994 were eradicated by May 1997 and Paraguay was recognized as FMD free with vaccination. This status was revoked in 2002 because of an outbreak at the border with Brazil. Another outbreak in 2003 lead Paraguay to revise its eradication program. In January 2005, Paraguay regained its FMD free with vaccination status.

195. With regard to BSE, in July 2002 the Scientific Committee of the European Communities had categorized Paraguay as geographic risk 1, defined as highly improbable for domestic cattle to be clinically or pre-clinically infected with the causal agent. In February 2005, Paraguay submitted the required documentation to the OIE requesting recognition of BSE free status. The OIE would consider the documentation at its September meeting and a technical report would be presented to the Scientific Committee on 16-20 January 2006.

196. On classical swine fever, Paraguay had embarked on an eradication programme since 1998 and monitoring surveillance was implemented since 2003. No outbreaks of the disease had occurred since 1996. In the Western region, 3 major divisions were certified as disease free without vaccination. While 14 divisions of the Eastern region had not experienced any outbreaks of the disease, vaccination was being administered. Paraguay had been free of Newcastle disease since 11 December 2000 and had put in place a monitoring system to control imports.

Peru – Report on the FMD situation

197. The representative of Peru informed the Committee that currently 97.6 per cent of the national territory was free of FMD without vaccination and 2.4 per cent was free of FMD with vaccination. In March 2004, Peru submitted required documentation to the OIE requesting recognition of the southern part of the country as FMD free without vaccination. On 13-19 January 2005, the OIE Scientific Committee recommended that an ad hoc group evaluate Peru's reports. After the consultation period with Member countries, the Scientific Committee would put forward a resolution on a list of countries with FMD free regions at the 73rd OIE General Session in May 2005.

Panama – Report on Mediterranean fruit fly situation

198. The representative of Panama reported on the on-going project in Panama to declare the peninsula of Azuero free of Mediterranean fruit fly. Since 1986, nationwide monitoring systems had been set up in the area of Azuero. Three provinces, Los Santos, Herrera and part of Veraguas have neither reported nor observed the presence of these pests. In October 2004, the Director of Plant Sanitation requested USDA, APHIS to initiate the process of declaration of Mediterranean fruit fly free area. Panama must now ensure that it meets APHIS requirements for exports to the United States which may take more than two years to achieve. APHIS and the Ministry for Agricultural Development (MIDA) undertook a joint sampling project in the Azuero region issued a report on 11 February 2005.

Panama – Information on traceability

199. The representative of Panama reported that the Ministry of Agriculture and Animal Husbandry set up a fund to implement traceability. A pilot project for bovine in the province of Darién would be extended nationwide. Significant progress was made regarding the identification of

animal stocks and the movement of cattle from birth to slaughter. A decree to set up a national commission for traceability for farm and animal husbandry products was being prepared .

European Communities – New MRL harmonized approach

200. The representative of the European Communities stated that it would shortly provide a document on the new harmonized EC approach for maximum residue levels (G/SPS/GEN/557).

XVI. DATE AND AGENDA OF NEXT MEETING

201. The next regular meeting of the Committee was tentatively scheduled for **29-30 June 2005, with informal meetings scheduled for 27-28 June**. Informal meetings would be held on special and differential treatment, the Review of the operation of the SPS Agreement and regionalization. The Committee agreed on the following provisional agenda for its next meeting:

AGENDA FOR MEETING OF 29-30 JUNE 2005

1. Proposed agenda
2. Election of the Chairperson
3. Activities of Members
4. Specific trade concerns
 - (a) New issues
 - (b) Issues previously raised
 - (c) Consideration of specific notifications received
 - (d) Information on resolution of issues in G/SPS/GEN/204/Rev.5
5. Operation of transparency provisions
6. Implementation of special and differential treatment
7. Equivalence – Article 4
 - (a) Information from Members on their experiences
 - (b) Information from relevant observer organizations
8. Pest- and Disease-free areas – Article 6
9. Technical assistance and cooperation
 - (a) Information from the Secretariat
 - (b) Information from Members
 - (c) Information from observers
10. Monitoring the use of international standards
 - (a) New issues
 - (b) Issues previously raised
11. Review of the operation of the SPS Agreement
12. Matters of interest arising from the work of observer organizations

13. Observers - Requests for observer status
14. Other business
15. Date and agenda of next meeting

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

- (i) For sending comments in writing on the draft report of the Review of operation of the SPS Agreement: **10 June 2005**
 - (ii) For identifying new issues for consideration under the monitoring procedure:
(iii) 15 June 2005
 - (iv) For requesting that items be put on the agenda: **16 June 2005**
 - (v) For the distribution of the airgram: **17 June 2005**
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