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Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat

Revision

At the 15-16 March 2000 meeting of the SPS Committee, the Secretariat was requested to prepare a paper summarizing the specific trade concerns that had been brought to the Committee's attention.¹ This revision includes all issues which have been raised at SPS Committee meetings through the nineteenth regular meeting of the Committee on 8-9 November 2000.

The issues are divided into those concerned with food safety, animal health, plant health and others, and listed in alphabetical order according to the country maintaining the measure in question. Where one issue concerns both food safety and animal health, it is included under food safety, except for BSE concerns, which will be found in the animal health section.

Resolution of the specific concerns raised has been explicitly reported to the Committee for a limited number of matters only. (These are noted in the summary table at the beginning of each item.) This does not necessarily mean, however, that there has not been resolution of other concerns, only that this has not been explicitly reported to the Committee. Indeed, in many cases the Members concerned have reported satisfactory progress, or expectation of resolution. At the 8-9 November 2000 meeting, the Chairman invited Members to report to the Secretariat if any matters had been resolved. All responses received were incorporated in this revision.² Members are encouraged to inform the Committee of the current status of all trade concerns identified in this document.

¹ G/SPS/R/18, para. 20.

² G/SPS/R/20, para. 31.

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I. FOOD SAFETY

1. Australia – Restrictions on imports of sauces containing benzoic acid

Raised by:	Philippines
Supported by:	Malaysia
Dates raised:	September 1998 (G/SPS/R/12, paras. 83-85), November 1998 (G/SPS/R/13, paras. 24-25), July 1999 (G/SPS/R/15, para. 68), June 2000 (G/SPS/R/19, para. 21)
Relevant document(s):	G/SPS/GEN/106; see also G/SPS/13, G/SPS/GEN/137 and G/SPS/W/107/Rev.1
Solution (if reported):	Australian tolerance level modified June 2000.

1. In September 1998, the Philippines voiced concerns that Australia's import prohibition on Philippine sauces containing benzoic acid were discriminatory, since sauces from New Zealand were allowed entry even if they contained benzoic acid. Australia indicated willingness to pursue this matter with the Philippines. Both Members noted the absence of an international standard for benzoic acid in sauces. In November 1998, the Philippines reported that bilateral consultations had not been successful. Australia explained that the different rules applying to sauces from New Zealand were transitional, and stemmed from a treaty establishing a common food standards system for both countries. Australia expected that the final standard for food additives would be implemented in the first half of 1999.

2. In July 1999, the Philippines again reported on bilateral consultations. Completion of Australia's new food code was foreseen for late 1999. Australia confirmed that benzoic acid would be allowed as an additive under the new food standards code.

3. In June 2000, the Philippines requested an update of the situation from Australia. Australia reported that the relevant part of the Australian Food Standards Code had been revised. The present restriction on benzoic acid would be removed and replaced on 22 June 2000 with a tolerance level of 1000 milligrams per kilogram for benzoates in sauces, applicable to all products sold in the Australian market, whether domestic or imported.

2. Australia and New Zealand – Import restrictions on cheese

Raised by:	European Communities, Switzerland
Supported by:	
Dates raised:	June 1998 (G/SPS/R/11 and Corr.1, paras. 41-42b), November 1998 (G/SPS/R/13, paras. 21-23), March 1999 (G/SPS/R/14, paras. 9-13), November 2000 (G/SPS/R/20, para. 32)
Relevant document(s):	G/SPS/N/AUS/80, G/SPS/N/AUS/107, G/SPS/N/NZL/48
Solution (if reported):	Switzerland reported that a mutually satisfactory solution had been found.

4. In June 1998, Switzerland reported that, without advance notice, New Zealand and Australia had stopped imports of hard cheeses made from unpasteurized milk, on the grounds that they did not meet the sanitary requirements. Australia and New Zealand responded that the relevant import measure required inactivation of pathogenic organisms. This measure had been put in place before 1 January 1995 and therefore not been notified, but compliance had recently been reinforced. ANZFA was evaluating the applications received from Switzerland and the European Communities.

5. In November 1998, the European Communities requested Australia to identify the international standard on which its import ban on Roquefort cheese was based, or to provide scientific

justification and a risk assessment. Australia responded that its food standards required all cheese to be made from pasteurized milk, or milk that had undergone an equivalent process. Australia's risk assessment on Roquefort cheese had identified potential problems with pathogenic micro-organisms, in particular entero-hemorrhagic E-coli. Further data from the Roquefort manufacturers had been received and were being evaluated. In addition to food safety assessments, Roquefort cheese was being evaluated for risks to animal health. Draft revised import conditions would be notified soon, and comments solicited. A final decision was likely in the first quarter of 1999 on both food safety and animal health aspects.

6. In March 1999, Switzerland asked about the progress of ANZFA's procedures. Australia responded that ANZFA had conducted a risk assessment. The documentation would be published on 17 March 1999 for public comment, after which a final recommendation would be made. Swiss officials in Canberra would be briefed on 16 March 1999. Regarding EC concerns, Australia reported that according to a risk assessment initiated by the Australia New Zealand Food Authority (ANZFA), French Roquefort did not comply with Australian requirements. French officials in Canberra would be briefed on the issue. In November 2000, Switzerland reported that a mutually satisfactory solution had been found.

3. Belgium - Measures regarding canned tuna in oil

Raised by:	Philippines
Supported by:	
Dates raised:	November 1999 (G/SPS/R/17, paras. 87-88)
Relevant document(s):	Raised orally
Solution (if reported):	

7. The Philippines expressed concern regarding a Belgian decision to withdraw from sale Philippine canned tuna in oil based on allegations of contamination with biphenol-A-diglycydyl and biphenol-F-diglycydyl. The European Communities responded that following reports of a possible contamination, a Belgian supermarket had withdrawn the product from sale. The European Communities was unaware of any actions taken by the Belgian authorities, but offered to pursue the matter on a bilateral basis with the Philippines.

4. Brazil - Import requirements for wine

Raised by:	European Communities
Supported by:	
Dates raised:	May 1996 (G/SPS/R/5, para. 13), March 1997 (G/SPS/R/7, para. 23)
Relevant document(s):	G/SPS/N/BRA/13/Rev.1
Solution (if reported):	

8. In May 1996, the European Communities expressed concern that proposed Brazilian import requirements for wine had not been notified. The European Communities was concerned that Brazil was apparently requiring that establishments in exporting countries be inspected and approved by Brazilian authorities. The European Communities considered its own requirements for wine production to be at least equivalent to those in Brazil with respect to the safety of the product for the consumer, and planned to present written comments to Brazil once an SPS notification had been made.

9. In March 1997, the European Communities questioned Brazil's measure on wine exports, notified as G/SPS/N/BRA/13/Rev.1 on 6 February 1997, stating that it was not clear what requirements producers faced. The European Communities questioned whether inspection

requirements for individual establishments were based on science, and expressed concern over certification requirements for individual consignments rather than more general, generic types of certification. Brazil noted that the proposed legislation would not be adopted before 16 May 1997, and that the full text of the proposed legislation was available from the Brazilian Enquiry Point. Although Brazil insisted that its legislation was in conformity with the SPS Agreement, and not substantially different from legislation in place in several European countries, it was open for bilateral discussions on the subject.

5. Canada - Importation of cheese

Raised by:	European Communities
Supported by:	Switzerland
Dates raised:	May 1996 (G/SPS/R/5, para. 14)
Relevant document(s):	G/SPS/N/CAN/8
Solution (if reported):	

10. The European Communities raised concerns with a proposed Canadian requirement that cheese be pasteurized or produced from pasteurized milk. The European Communities considered that its measures, including production requirements, safe and correct sourcing and subsequent supervision in the various production stages from farm to consumer, provided at least equivalent guarantees in terms of food safety. The European Communities observed that a number of Members maintained restrictions on imports of raw milk cheeses from the European Communities which were not justifiable on health grounds. Canada noted that on request it would provide scientific documentation in support of the proposal, and that an expert advisory committee had been appointed to examine the matter.

6. Chile, Czech Republic, El Salvador, Honduras, Slovak Republic – Zero-tolerance for *salmonella* in imported poultry products

Raised by:	United States
Supported by:	
Dates raised:	October 1996 (G/SPS/R/6, paras. 18-25), March 1997 (G/SPS/R/7, paras. 52-53)
Relevant document(s):	G/SPS/GN/3, G/SPS/N/CZE/8
Solution (if reported):	

11. In October 1996, the United States indicated that a number of Members discriminated between standards for control of *salmonella* in domestic versus imported poultry products. Chile, the Czech Republic, El Salvador, Slovakia and Honduras applied so-called zero-tolerance standards, which was a misleading name since none of these Members appeared to have eradication or surveillance systems in place to establish non-existence of *salmonella* in domestic products.

12. The Slovak Republic responded that it did not apply a zero-tolerance standard, but rather required ante- and post-mortem treatment of slaughter poultry, for domestic and imported poultry meat. The Czech Republic clarified that its regulations required negative results on *salmonella* tests in poultry holdings and slaughterhouses. Czech requirements were laid out in the Draft Law on Foodstuff and Tobacco Products to be adopted in 1997, notified as G/SPS/N/CZE/8. No assurances had been received from the United States that these requirements would be met. The Czech Republic suggested bilateral consultations between veterinary experts. The representatives of Honduras and El Salvador indicated that they would inform their authorities of the statement made by the United States.

13. Chile observed that bilateral consultations on *salmonella* had started in 1992. The US concern was probably due to a misunderstanding of Chile's sanitary requirements, which required tests to determine the level of salmonella. The result was compared with the level of prevalence in the exporting country, which was part of Chile's risk assessment procedure. Chile was aware that the United States had difficulties in complying with this requirement given the high level of prevalence of *salmonella* domestically. Given the US situation, the Chilean government was prepared to show a certain flexibility and would consider imports of irradiated poultry from the United States as a possible alternative.

14. In March 1997, the United States reiterated its concerns. In particular, Chile had not substantiated its claim that salmonella was less prevalent in domestic poultry stocks compared to the imported product, and the Czech Republic continued to maintain a zero-tolerance policy. Furthermore, the United States was interested to know when legislation would be implemented to harmonize requirements for poultry meat imports in the Central American Common market. In response, Chile recalled its arguments made at the previous meeting, and remained open to further discussion with the United States. In February 2001, the Czech Republic reported that its new Law on Foodstuff and Tobacco Products had been adopted (decree 298/1997), and that it had been in contact with the United States since then.

7. Czech Republic - Prohibition of poultry meat imports from Thailand

Raised by:	Thailand
Supported by:	
Dates raised:	September 1998 (G/SPS/R/12, paras. 81-82), November 1998 (G/SPS/R/13, paras. 39-40), March 1999 (G/SPS/R/14, para. 16), July 1999 (G/SPS/R/15, para. 8), November 1999 (G/SPS/R/17, para. 5)
Relevant document(s):	G/SPS/N/CZE/16
Solution (if reported):	Czech measure lifted in October 1999.

15. In September 1998, Thailand indicated that since June 1998, the Czech Republic had stopped shipments of poultry meat from Thailand on the grounds that it contained levels of arsenic acid above the acceptable Czech limits. Thailand indicated that this measure was not scientifically justified and too trade restrictive, and asked whether the measure was non-discriminatory. The Czech Republic indicated that bilateral consultations had begun and would continue, and assured Thailand of the non-discriminatory nature of its testing methodology.

16. In November 1998, Thailand reported that bilateral consultations had been held, and that the Czech Republic had agreed to provide further clarifications on the measure, as well as a scientific justification. The Czech Republic indicated that the exchange of information would take place before a mission of Czech experts to Thailand in the near future.

17. In March 1999, Thailand and the Czech Republic reported that bilateral consultations were progressing, and that the problem might be resolved after a visit of Czech experts to Thailand, planned for April 1999. In July 1999, Thailand reported that the visit of Czech experts had been re-scheduled for September 1999. The Czech Republic confirmed that consultations were advancing. In November 1999, the Chairman informed the Committee that the Czech Republic had recently notified the lifting of the measure from 1 October 1999.

8. Egypt - Restrictions on canned tuna

Raised by:	Thailand
Supported by:	
Dates raised:	June 2000 (G/SPS/R/19, paras. 103-104)
Relevant document(s):	G/SPS/GEN/203
Solution (if reported):	Formal consultations requested by Thailand.

18. Thailand, acknowledging Egypt's decision to restrict food imports containing genetically modified organisms (GMOs), insisted that Thai canned tuna did not contain soybean oil produced from genetically modified plants. Thailand noted that it was not possible to identify the origin of soybean oil since the final processing stages destroyed genetic material. Thailand considered the restrictions on Thai canned tuna to be discriminatory, and asked the Egyptian Government to lift the restrictions as soon as possible. Egypt took note of Thailand's concerns and agreed to report back to the Committee in due course.

9. European Communities - Information on dioxin

Raised by:	None, information provided by the European Communities.
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, paras. 17-22), March 2000 (G/SPS/R/18, para. 19), June 2000 (G/SPS/R/19, para. 9)
Relevant document(s):	G/SPS/GEN/123 and Add.1-4
Solution (if reported):	

19. In July 1999, the European Communities provided information on the dioxin contamination which had occurred in Belgium in January 1999, and on the steps it had taken to manage the health risks. Many countries had responded by imposing trade restrictions. The European Communities stressed that there was no longer any justification for maintaining import bans, regretting that several countries had not notified their bans. The European Communities reserved its right to take action with regard to unjustified trade barriers.

20. Malaysia expressed disappointment to be receiving information at such a late stage. It would only be in a position to lift its import ban when it was fully satisfied that there was no more danger from EC products. Australia, Canada, Chile, Brazil, South Africa and the United States appreciated the information provided by the European Communities throughout the dioxin crisis. Australia and the United States had notified any action taken with respect to dioxin. Canada had banned Belgian imports, but was reviewing the products and areas covered by the ban. The Philippines indicated that its measures had taken into account the EC measures regarding dioxin, and were being reassessed.

21. The WHO noted that it had convened an expert consultation in 1998 to evaluate the tolerable daily dose of dioxin to which humans could be exposed without harm. Codex reported that at the July 1999 meeting of the Codex Alimentarius Commission, countries had requested that an intergovernmental group prepare a code of practice on animal feed. The European Communities added that it had established a working group within its Standing Committee on Animal Nutrition which was examining legislation regarding animal nutrition to prevent future accidents.

22. In March 2000, the European Communities provided an update on the dioxin situation. While some Members had adjusted their trade measures as the situation evolved, others continued to apply unnecessarily strict measures. The European Communities looked forward to receiving answers to the questions it had raised in G/SPS/GEN/123/Add.3.

23. In June 2000, the European Communities explained that all previously restricted products could be circulated and exported without any additional certification. While there was a general acceptance by Members that EC and Belgian products no longer represented a health risk, some Members had neither lifted their measures nor responded to a January 2000 letter requesting that they remove them. The European Communities repeated that it reserved its right to take any necessary action with regard to unjustified trade barriers.

10. European Communities - Measures on food treated with ionizing radiation

Raised by:	United States
Supported by:	
Dates raised:	September 1998 (G/SPS/R/12, paras. 37-38)
Relevant document(s):	G/SPS/N/EEC/61
Solution (if reported):	

24. The United States sought clarification on the EC measure on food and food ingredients treated with ionizing radiation. The United States was taking similar steps towards recognizing that this technology could play a role in ensuring the wholesomeness and safety of food, and had sent official comments to the European Communities. However, the United States emphasized that the list of products provided in an annex to the EC directive should be expanded to cover other food products such as pork, beef, poultry, fruits and vegetables. The United States also requested explanation of how the approval process for treatment facilities worked. The European Communities indicated that the US suggestions would be forwarded to the competent EC services.

11. European Communities - Notification G/SPS/N/EEC/62 of emergency measures on citrus pulp

Raised by:	Brazil
Supported by:	
Dates raised:	September 1998 (G/SPS/R/12, paras. 49-50)
Relevant document(s):	G/SPS/N/EEC/62
Solution (if reported):	

25. Brazil expressed concerns regarding EC emergency notification G/SPS/N/EEC/62, which mentioned very high levels of dioxin found in citrus pulp pellets from Brazil. Brazil pointed out that this accident had already been fully dealt with. Brazilian authorities were maintaining bilateral talks with the European Communities on the subject. The European Communities explained that this accident had involved 90 000 tonnes of contaminated citrus pulp pellets destined for animal feed. After scientific discussions, including Brazil's private sector, the EC authorities had decided that the lack of information on the origin of the contamination, the amount of stocks involved and the lack of a solution justified the emergency measure. The European Communities hoped that ongoing contacts with the Brazilian authorities would result in a solution before the end of the year.

12. European Communities - Measure on establishments operating in the animal feed sector

Raised by:	United States
Supported by:	Argentina
Dates raised:	June 1998 (G/SPS/R/11, paras. 50-56), September 1998 (G/SPS/R/12, paras. 35-36)
Relevant document(s):	G/SPS/N/EEC/58, G/SPS/GEN/88
Solution (if reported):	

26. In June 1998, the United States raised its concerns with regard to an EC measure which set conditions and arrangements for approving and registering establishments and intermediaries operating in the animal feed sector. The United States sought clarification regarding criteria used, justification and coverage of the measure and the procedures involved, and asked for an update on its implementation status.

27. The European Communities replied that it was putting in place the legislative framework for the establishment of a single market in regard to animal, plant and consumer health. It was establishing harmonized standards so that products could circulate freely within the Community. The European Communities provided an explanation of the criteria used and risks addressed by the framework, and clarified that it applied only to feedingstuffs for farm animals, not to pet food. The European Communities clarified that by the end of 1998, EC member States must provide the Commission with a list of establishments considered eligible, which could be modified later on. Establishments would be inspected by the EC Commission. The European Communities considered its registration requirements to be flexible and not very onerous. Argentina requested a written copy of the EC statement.

28. In September 1998, the United States reported it was encouraged by the EC willingness to consult on this draft directive with a view to safeguarding public and animal health while minimizing trade disruptions. The European Communities noted that the new regime was similar to the previous one, but was more flexible in that on-the-spot inspection in third countries was optional. The European Communities assured the United States that prompt answers would be provided to all questions raised.

13. European Communities - Maximum levels for certain contaminants (aflatoxins) in foodstuffs

Raised by:	Argentina, Australia, Bolivia, Brazil, The Gambia, India, Indonesia, Malaysia, Philippines, Senegal, Thailand
Supported by:	Canada, Colombia, Mexico, Pakistan, Paraguay, Peru, Philippines (ASEAN), South Africa, Turkey, United States, Uruguay
Dates raised:	March 1998 (G/SPS/R/10, paras. 24-31), June 1998 (G/SPS/R/11, paras. 15-19), September 1998 (G/SPS/R/12, paras. 11-14), November 1998 (G/SPS/R/13, para. 26), March 1999 (G/SPS/R/14, paras. 64-66)
Relevant document(s):	G/SPS/N/EEC/51, G/SPS/GEN/50, G/SPS/GEN/52, G/SPS/GEN/54, G/SPS/GEN/55, G/SPS/GEN/56, G/SPS/GEN/57, G/SPS/GEN/58, G/SPS/GEN/61, G/SPS/GEN/62, G/SPS/GEN/63, G/SPS/GEN/93
Solution (if reported):	Maximum levels for some products and sampling procedures revised.

29. In March 1998, a number of countries argued that the EC proposal to set new maximum levels for aflatoxins would impose severe restrictions on trade while not resulting in a significant reduction in health risk to consumers. The proposal did not seem to be based on a proper risk assessment. Furthermore, the proposed sampling procedure was unduly costly, burdensome and unjust. Although an international standard on the subject did not yet exist, the Codex Committee on Food Additives and Contaminants (CCFAC) was considering the matter. The complaining Members felt that the timing was unfortunate, and urged the European Communities to review the proposed measure.

30. The European Communities noted that there had been no consensus in the CCFAC on the issue; although many countries supported the Codex norm, the European Communities did not. The proposed measure reflected the EC level of protection. With regard to the sampling procedure, since contamination appeared in a small percentage of kernels, one simple sample was not sufficient to

minimize risk to consumers. The proposed methods were already used by some EC member States. The European Communities planned to evaluate the comments received until May 1998 and formalize the proposal in June 1998. The measure would enter into effect relatively shortly afterwards.

31. In June 1998, the European Communities reported that it had forwarded a revised proposal to its member States. The EC Standing Committee on Foodstuffs would consider the proposed modifications on 17-18 June 1998. Apart from revising some of the maximum levels, the European Communities was considering transitional arrangements, and the new measures would not enter into force before 1 January 1999.

32. In September 1998, Bolivia informed the Committee that the proposed EC measure would have severe effects on Bolivian exports of Brazil nuts. Bolivia requested to see the EC risk assessment, and indicated it was prepared to enter into bilateral discussions with the European Communities in order to find a mutually agreeable solution. The United States encouraged the European Communities to take into account the recommendations contained in the FAO/WHO risk assessments establishing maximum levels for aflatoxin in consumer-ready products. The ASEAN countries expressed concern with maximum levels in milk, which would affect developing countries' feed exports.

33. The European Communities noted that the deadline for comments had been extended to allow for further comments from Members. The European Communities had also revised its proposal, and was prepared to raise the proposed maximum levels in nuts. With regard to milk, the proposed EC levels were in line with the standards being discussed in Codex.

34. In November 1998, the Chairman informed the Committee about bilateral consultations between Bolivia and the European Communities which he had been requested to facilitate. The Chairman reported that the discussions had been very fruitful, and had helped Bolivia to better understand the rationale behind the EC measures, as well as the EC procedures followed. They had also helped the EC understanding of the potential effect of some of its measures on the Bolivian industry. Technical consultations were continuing.

35. In March 1999, Bolivia reported that it had presented a plan to improve its Brazil nuts, and consultations with the European Communities were ongoing. Bolivia considered that this was a good case for the application of special and differential treatment. Peru indicated that several countries had brought their problems with the new EC regulation on aflatoxins to the attention of the European Communities through their missions in Brussels, without having obtained a satisfactory response. In particular, the European Communities had not presented a risk assessment. The European Communities assured Bolivia that their common examination of the problem would continue through a rapid procedure. In response to other Members, the European Communities indicated that there had been ample time for comments, and that the proposal had been revised in response to comments received. On cereals, the European Communities was prepared to continue accepting comments until 1 July 1999 and to modify the measure if there was scientific justification.

14. European Communities – Trade restrictions in response to cholera

Raised by:	Tanzania
Supported by:	
Dates raised:	March 1998 (G/SPS/R/10, paras. 56-57), June 1998 (G/SPS/R/11, paras. 96-99)
Relevant document(s):	G/SPS/N/EEC/4
Solution (if reported):	Measures revised.

36. In March 1998, the European Communities informed the Committee that it had taken safeguard measures with respect to imports of fruit, vegetables and fish products in light of a cholera outbreak in Tanzania, Kenya, Uganda and Mozambique. The inspection procedures in these countries had shown deficiencies, but the European Communities planned to consult with them to find arrangements by which they could put in force proper hygiene requirements. EC member States were trying to develop a joint cholera policy based on risk assessment. The WHO observer did not consider the import ban necessary, especially on fish products which were not consumed in raw form in Europe. He drew attention to the WHO Guidance on Foundation of National Policy and Control of Cholera, and particularly the conclusion in Chapter IX that: *"Although there is a theoretical risk of Cholera transmission associated with some food commodities moving in international trade, this has rarely proved significant and authorities should seek means of dealing with it other than by applying an embargo on importation"*.

37. In June 1998, Tanzania reported that the European Communities continued to prohibit the importation of fresh, frozen and processed fishery products from the four African countries, although tests had not found the bacteria concerned. Tanzania stressed that the EC ban was having severe economic effects on the Tanzanian economy, and that according to the SPS Agreement, Members should help developing countries comply with their SPS measures. The European Communities responded that it was now satisfied the necessary guarantees were in place, and that a new measure restoring trade with the four African countries would probably enter into force on 1 July 1998.

15. Iceland's notification on meat and meat products

Raised by:	Argentina
Supported by:	
Dates raised:	March 2000 (G/SPS/R/18, para. 27)
Relevant document(s):	G/SPS/N/ISL/1
Solution (if reported):	

38. Argentina expressed interest in the notification of this measure permitting meat imports without heat treatment into Iceland since it appeared to open the market to higher quality beef, although this was not entirely clear from the notification. Iceland confirmed that meat could be imported without heat treatment, provided all necessary certificates and documents were submitted.

16. Korea – Import ban on frozen poultry

Raised by:	Thailand
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, para. 45), March 1998 (G/SPS/R/10, paras. 67-68), June 1998 (G/SPS/R/11, paras. 21-23), September 1998 (G/SPS/R/12, paras. 15-16)
Relevant document(s):	G/SPS/N/KOR/44
Solution (if reported):	Thailand's comments taken into account – measure amended.

39. In October 1997, Thailand indicated that Korea had banned Thai frozen poultry because of listeria, although Korean experts had been satisfied after visiting facilities of the Thai poultry industry. This ban had not been notified in advance. Thailand was determined to resolve this matter with Korea. Korea asked for detailed information in writing.

40. In March 1998, Thailand indicated that it had submitted the requested information. It sought clarification whether the measure was based on an international standard or on a risk assessment, particularly in light of information made available by the WHO working group on food-borne

listeriosis, which indicated that listeriosis had a very low incidence in Asia. Korea responded that its measure was not a ban, but that consignments had been rejected.

41. In June 1998, Thailand noted that the proposed amendment to the Korean food code had been enacted retroactively to cover the disputed testing requirements and asked Korea not to enforce the testing requirements during the process of amendment of the food code. Korea reported that bilateral consultations had been held. The food code was being reviewed to improve food safety and to harmonize Korean regulations with international standards. All comments received were currently being reviewed, although some delays had occurred. Korea promised to inform Thailand of the final outcome.

42. In September 1998, Thailand asked for confirmation that the Korean Food Code had been amended so that zero tolerance criteria for listeria would not apply to imported frozen chicken after 16 June 1998. Korea clarified that meat for further processing and cooking was excluded from the requirement and not subject to inspection under the zero tolerance criteria for listeria.

17. Korea – Shelf-life requirements

Raised by:	Australia, Canada, United States
Supported by:	Argentina, European Communities
Dates raised:	June 1995 (G/SPS/R/2, paras. 39-40), November 1995 (G/SPS/R/3, paras. 7-8), May 1996 (G/SPS/R/5, paras. 42-44), March 1997 (G/SPS/R/7, paras. 20-21), July 1997 (G/SPS/R/8, paras. 8-9), October 1997 (G/SPS/R/9/Rev.1, paras. 6-7)
Relevant document(s):	G/SPS/N/KOR/9, G/SPS/W/27, G/SPS/W/41, G/SPS/W/43, G/SPS/GEN/40
Solution (if reported):	The United States and Korea held formal consultations under dispute settlement (W/DS5), and notified a mutually agreed solution in July 1995. Canada initiated formal dispute settlement (W/DS20), and a mutually satisfactory solution was notified in April 1996.

43. In June 1995, the United States informed the Committee of official consultations under Dispute settlement procedures with Korea regarding its government-mandated shelf-life requirements. Canada had joined these consultations. Korea indicated that although consultations had been productive, there was a high degree of ambiguity in the implementation of the Agreement. The parties had noted the lack of international standards in the area, and countries maintained very diverse practices. A mutually agreed solution was notified in July 1995. In November 1995, the United States expressed serious concern that Korea was not implementing the agreed settlement.

44. Also in November 1995, Canada indicated that it had initiated formal consultations with Korea related to shelf-life determination for bottled water and the prohibition of the use of ozonation. Korea confirmed that bottled water was excluded from the settlement reached with the United States, but was willing to enter into consultations with Canada. A mutually satisfactory solution was notified in April 1996.

45. In May 1996 Canada noted that although a formal understanding had been reached with regard to some concerns regarding shelf life, problems with the shelf life of bottled water continued. Korea had not offered any time-table for moving to a manufacturer-determined shelf life on bottled water. Korea took note of this concern. In July 1997, Canada reported that the matter had been pursued bilaterally, but no resolution had been found.

46. In May 1996, Australia expressed serious concern with regard to Korea's shelf-life regulations on ultra heat treated milk in consumer packs (UHT milk), which remained government mandated at a

period substantially shorter than that applied in most countries. Australia was unaware of any scientific justification for this limited shelf-life period, and requested Korea to permit a manufacturer-determined shelf life by 1 July 1996. Korea took note of these concerns.

47. In March 1997, Australia reported that Korea had yet to implement a manufacturer-determined shelf life for UHT milk. Australia had provided a scientific submission to Korea in November 1996, which had not been accepted. Subsequently, Australia had provided another submission upon request. Korea indicated that it was reviewing the information provided by Australia and noted that its new system for shelf-life determination set a time-frame for the implementation of a manufacturer-determined shelf-life period for UHT milk.

48. In July 1997, Australia noted that Korea had not provided any justification for its non-acceptance of manufacturer-determined shelf life, and requested an explanation in accordance with Article 5.8. Korea indicated that manufacturer-determined shelf life would be applied to UHT milk before the end of 1998. In October 1997, Australia indicated that it had not received a satisfactory answer from Korea. Korea replied that it was reviewing the possibility of extending the current mandatory shelf-life period for UHT milk even before manufacturer-determined shelf life applied at the end of 1998.

18. Malaysia and Singapore - Notifications related to dioxin

Raised by:	Switzerland
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, para. 16)
Relevant document(s):	G/SPS/N/MYS/6, G/SPS/N/SGP/7
Solution (if reported):	Problems with Malaysia resolved, reported to be close to solution with Singapore in July 1999.

49. Switzerland expressed concern that it had been affected by restrictions on imports of European goods in response to the dioxin crisis in Belgium. Some Members had not targeted their measures only to affected areas. Switzerland reported that a solution had been found with Malaysia, and that the last few problems with Singapore would be resolved soon.

19. Panama - Restrictions on milk powder imports

Raised by:	European Communities
Supported by:	
Dates raised:	November 2000 (G/SPS/R/20, paras. 15-16)
Relevant document(s):	G/SPS/GEN/220
Solution (if reported):	

50. The European Communities indicated that since April 2000 the Panamanian authorities had delayed issuing the necessary import permits and certificates for the import of milk powder for human consumption from Denmark, resulting in a de facto ban on these products. No explanation had been provided in response to EC requests, and no notification submitted to the WTO. The European Communities requested a response by Panama to the questions contained in G/SPS/GEN/220. The representative of Panama agreed to submit the questions to his capital, and indicated the willingness of Panama to consult with the European Communities on this matter.

20. Poland - Requirements for imports of milk and milk products

Raised by:	European Communities
Supported by:	
Dates raised:	November 1998 (G/SPS/R/13, paras. 70-71)
Relevant document(s):	G/SPS/N/POL/14
Solution (if reported):	

51. The European Communities indicated that the Polish sanitary requirements for milk and milk products resulted in unjustified trade distortions since they required the application of heat treatment to products which were produced with raw milk. The European Communities felt that there were equivalent procedures to ensure that Poland's level of protection was met, and invited Poland to engage in bilateral discussions on this measure. Poland indicated that the EC request would be considered.

21. Spain – Restriction on levels of copper and cadmium in imported squid

Raised by:	United States
Supported by:	Argentina
Dates raised:	October 1996 (G/SPS/R/6, paras. 16-17), March 1997 (G/SPS/R/7, para. 56)
Relevant document(s):	Raised orally
Solution (if reported):	

52. In October 1996, the United States noted that the Spanish regulation on levels of copper and other minerals in imported squid was discriminatory since domestic and EC products were specifically exempted. The European Communities replied that the scientific justification for imposing such a measure came from a WHO recommendation on maximum weekly intakes of metal. Harmonization of the permitted levels of various metals across the European Communities was currently being discussed in Brussels. Argentina observed that the problem was not one of harmonization, but of national treatment.

53. In March 1997, the United States recalled the discriminatory nature of the measure. The European Communities explained that although the norm only referred to third countries, in practice it was recognized by EC member States as well. In addition, the majority of squid imported into Spain came from outside the European Communities. Since Spain had a particularly high consumption of the products in question, this had to be taken into account in addition to WHO recommendations.

22. Switzerland - Notifications regarding import requirements on meat and eggs

Raised by:	United States
Supported by:	Australia, Brazil, Canada, Chile, Hungary, India, Israel, New Zealand
Dates raised:	September 1998 (G/SPS/R/12, paras. 39-41), November 1998 (G/SPS/R/13, paras. 29-30)
Relevant document(s):	G/SPS/N/CHE/14 and Corr.1, G/SPS/N/CHE/15, G/SPS/N/CHE/16
Solution (if reported):	

54. In September 1998, the United States expressed concern that Swiss regulations on meat from animals treated with hormones, antibiotics and similar products imported under the Swiss tariff rate quota (TRQ) were not based on science or risk assessment. The fact that different requirements were applied to meat imported outside the tariff rate quota called into question the validity of the alleged public health objective behind the regulation. The United States indicated it was preparing formal comments and encouraged other Members to carefully consider the implications of the notified

measure. Canada noted that the purpose of the measure was consumer information, yet the measure did not make it clear if labelling was carried through to the retail level. Switzerland noted that thirty days were left of the comment period, and that all comments made would be taken into account when drafting the final proposal.

55. In November 1998, the United States reiterated its concerns regarding restrictions on meat imports under the Swiss TRQ, and added that the measure notified as G/SPS/N/CHE/15 would prohibit imports of eggs and egg products from birds raised in battery cages under the TRQ. Such imports would be permitted outside the TRQ, subject to prohibitively high duties, strict labelling and additional certification requirements. The proposed regulations did not indicate what public health objective was involved. The United States was concerned that the measures did not appear to be based on a risk assessment. Discrimination between products imported under the TRQ and outside the TRQ was unjustified. Switzerland explained that the measures related to the implementation of the new Swiss Federal Law on Agriculture of 29 April 1998. Swiss authorities were still discussing the implementation of the Law, and questions and comments would be taken into account.

23. United States - Notification G/SPS/N/USA/133 on refrigeration and labelling requirements for shell eggs

Raised by:	European Communities
Supported by:	
Dates raised:	November 1998 (G/SPS/R/13, paras. 37-38)
Relevant document(s):	G/SPS/N/USA/133
Solution (if reported):	

56. The European Communities queried whether the US measure was based on a risk assessment, and if this risk assessment was available. The European Communities sought written clarification from the United States regarding the non-application of the measure to units with 3000 hens or less, and asked the United States to explain the discrimination between foreign and domestic eggs. The European Communities also enquired whether the United States would accept equivalent measures. The United States responded that the risk assessment was available on the internet, but that a copy would be provided to the European Communities. The United States welcomed the EC request for consideration of equivalence, and indicated that answers to the more technical questions would be provided in due course.

II. ANIMAL HEALTH AND ZOOSES

A. ISSUES RELATED TO TSES

24. Argentina – Import restrictions on bovine semen, milk and milk products

Raised by:	European Communities
Supported by:	Switzerland
Dates raised:	March 1999 (G/SPS/R/14, paras. 17-18), July 1999 (G/SPS/R/15, paras 23-24), November 2000 (G/SPS/R/20, paras. 26-28)
Relevant document(s):	G/SPS/N/ARG/37, G/SPS/N/ARG/38, G/SPS/N/ARG/47, Corr.1 and Rev.1, G/SPS/GEN/114, G/SPS/GEN/131, G/SPS/GEN/135
Solution (if reported):	Measure revised and notified (G/SPS/N/ARG/47/Rev.1).

57. In March 1999, the European Communities noted it had been unable to obtain the text of Argentina's measure on bovine semen imports, and was submitting a series of questions. Argentina indicated that the measure had been notified (G/SPS/N/ARG/37). It clarified that the request for the

full text of the measure had not been received from the Commission, but from several EC member States. Argentina committed to sending the relevant document to the European Commission.

58. In July 1999, the European Communities again expressed concern regarding Argentina's BSE-related restrictions on bovine semen, milk and milk products. G/SPS/N/ARG/38 concerned a draft measure which classified these products as low-risk products. Subsequently notified import requirements (G/SPS/N/ARG/47) established country freedom from BSE or low BSE risk as preconditions for importing frozen bovine semen, although according to the OIE, bovine semen from healthy animals could be traded without BSE-related restrictions. The European Communities indicated that it had received no answers to the questions raised in March 1999, and raised several new questions.

59. Argentina replied that it had provided answers to the EC questions both bilaterally and in G/SPS/GEN/135. Argentina had received several comments on the measure notified in G/SPS/N/ARG/47, and had taken these comments into account. Argentina was planning to issue a revision of G/SPS/N/ARG/47, and was committed to continue exchanging information with the European Communities to resolve all questions before the measure was adopted.

60. In November 2000, the European Communities stated that Argentina was applying import restrictions on bovine semen that went well beyond international recommendations and were not justified. The European Communities would continue to pursue this issue bilaterally, and was hopeful of a resolution. Argentina replied that it had notified, in advance, its regulation as G/SPS/N/ARG/47, which was subsequently revised following comments by the European Communities and others (G/SPS/N/ARG/47/Rev.1). This regulation established criteria not only in relation to BSE concerns but also to two other diseases. Argentina had resolved the problems identified bilaterally by many EC member States, in particular Germany and France. Furthermore, an Argentine veterinary mission would be visiting various EC member States early in December and was prepared to also address this issue at that time.

25. Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Czech Republic, France, Germany, Italy, Netherlands, Poland, Romania, Singapore, Slovakia, Slovenia, Spain, United States and others – Measures related to BSE

Raised by:	Switzerland
Supported by:	
Dates raised:	May 1996 (G/SPS/R/5 and Corr.1, paras. 6-9), October 1996 (G/SPS/R/6, para. 53), March 1997 (G/SPS/R/7, paras. 56), July 1997 (G/SPS/R/8, paras. 10-19), October 1997 (G/SPS/R/9/Rev.1, para. 15-17), March 1998 (G/SPS/R/10, para. 9), June 1998 (G/SPS/R/11, para. 29), September 1998 (G/SPS/R/12, paras. 26-30), November 1998 (G/SPS/R/13, paras. 17-18), March 1998 (G/SPS/R/14, para. 14), March 1999 (G/SPS/R/14, para. 8)
Relevant document(s):	G/SPS/N/AUS/56, G/SPS/N/AUS/57, G/SPS/N/CAN/18, G/SPS/N/CHL/1, G/SPS/N/CHL/6, G/SPS/N/CHL/31, G/SPS/N/CZE/14 and Add.1, G/SPS/N/SGP/1, G/SPS/W/68, G/SPS/W/79, G/SPS/GN/5, G/SPS/GEN/71
Solution (if reported):	Slovak transit ban removed, mutually satisfactory solution found with regard to Slovak importation of Swiss milk and milk products; Chilean import measure modified; some other measures withdrawn/revised.

61. In May 1996, Switzerland presented information on its BSE situation, and noted that a number of countries had restricted imports of dairy products, although both the OIE and the WHO concluded that dairy products posed no risk in respect of BSE. In October 1996, Switzerland provided an update of its sanitary prescriptions, culling and veterinary measures to be adopted at the

border. In March 1997, Switzerland indicated that although it was a country of low incidence of BSE, it had been subject to a number of BSE-related trade restrictions, some of which could not be justified under WTO rules. The Chairman agreed to hold informal consultations with interested Members on 21 March 1997.

62. In July 1997, Switzerland reported that although there had been some positive developments, problems remained. Switzerland addressed some questions to the Members concerned, stressing its interest to find rapid solutions through bilateral discussions. Argentina informed the Committee that it had replied to Swiss questions and would provide more information; Switzerland expressed satisfaction with this progress. Brazil noted that its import prohibition of bovine semen was based on the classification of bovine semen as a medium risk product, and on Brazil's BSE-free status. At the subsequent meeting of the relevant MERCOSUR working group in July 1997, Brazil would attempt to reclassify bovine semen as low risk.

63. Canada noted that there had been no changes to its import conditions for the importation of live cattle, bovine embryos, bovine semen, bovine meat or meat products from Switzerland, although a draft document on BSE policies was being discussed. Canada was receiving comments on its draft measure, which would be in accordance with the OIE Code. Canada was concerned with the lack of quantitative or qualitative parameters for the differentiation between countries with high and low incidence of BSE, and re-extended an invitation for bilateral discussions.

64. The United States stressed that it did not prohibit the importation of meat. BSE-related measures were subject to continued review based on scientific evidence, which, for example, had led to the opening of trade in bovine semen, although other matters remained unresolved. The United States remained open to scientific discussion in the area. Switzerland noted that the United States required certification for dried meat, and hoped that the reviewed US policies would be in line with OIE recommendations.

65. Romania informed the Committee that it had held bilateral discussions with Switzerland. Its policies were in line with OIE recommendations, and would be notified shortly. Switzerland expressed satisfaction with the results of bilateral talks. Poland noted that imports to Poland were carried out on the grounds of individual import permissions, but that no application had been received from Switzerland. Switzerland requested bilateral clarifications. Singapore indicated that countries exporting beef were required to certify BSE-freedom for six years. It believed this measure to be consistent with the SPS Agreement, and planned to notify it shortly.

66. The Czech Republic was concerned about continued occurrence of BSE in Switzerland, especially since the Czech Republic was BSE-free. However, imports of bovine semen, brain and embryos from Switzerland were not restricted. The Czech Republic would prefer to continue discussion at the level of veterinary experts. The European Communities noted that measures were taken on a national basis by EC member States, but were screened for conformity with EC law before being notified to WTO. In the case of BSE, this had taken more time than expected, and although there was no common position within the European Communities, changes to the policy were being considered. The European Communities indicated it was going beyond OIE recommendations, and indicated that it would be useful to continue discussions with the relevant experts.

67. In October 1997, Switzerland indicated that its BSE-situation was improving, but that numerous restrictions continued to affect Swiss exports of live cattle, genetic material, meat, and in certain cases milk products. Bilateral consultations were continuing. Switzerland questioned why the Australian quarantine requirements for the importation of bovine embryos and semen applied to Switzerland only, and whether countries with actual BSE incidents were subject to similar requirements. Switzerland also wondered why the objective of the new requirements was to "develop import requirements...based on international standards", whereas the notification indicated that no

international standard existed. Australia replied that it had developed generic conditions for importation of ruminants and ruminant genetic material from member States of the European Communities, but had established bilateral conditions with other trading partners. The conditions in the notified draft requirements for Switzerland were in accordance with Australia's general import policy relating to BSE promulgated in January 1995, and were equivalent to BSE requirements for all other countries. International standards existed and Australia did not consider that the notified draft measures deviated from such standards.

68. Switzerland questioned why the Czech import restriction on imports of cattle over six months applied to Switzerland only, and whether countries with actual BSE incidents were subject to similar requirements. The Czech Republic replied that an individual import permit was required for traders interested in importing goods subject to veterinary control, including live animals. The Czech authorities considered the epizootic situation in the country of origin, frequency of newly found cases of contagious diseases, efficiency of eradication programmes, etc. The import approach was always the same and included discussion with the veterinary authorities of the country of origin. The system distinguished between countries with sporadic positive cases and those with continued occurrence of cases, like Switzerland. Although the measures in place in Switzerland corresponded to OIE recommendations, they had not fully eliminated BSE-related risks, and had not prevented new infections. Unlike other countries, Switzerland slaughtered and destroyed only BSE-affected animals, not all animals kept and fed in the same place. Such animals could be considered as a source of disease. Trade between the Czech Republic and the European Communities was based on EC measures which represented a higher rate of prevention than the OIE recommendations. The Czech Republic offered to continue bilateral discussions with Switzerland.

69. In March 1998, Switzerland reported that most BSE-related measures against its exports remained in place although they deviated from OIE recommendations. However, some Members had eliminated or revised their measures, especially on genetic products. With respect to the European Communities, Switzerland hoped that recent developments would lead to a more predictable situation. In June 1998, Switzerland and the Slovak Republic reported on progress achieved during consultations and in September 1998, Switzerland reported that the transit ban had been removed, although discussions on market access for dairy products continued.

70. In September 1998, Switzerland reiterated concerns with import prohibitions on Swiss bovine semen, which seemed to contradict WTO provisions regarding non-discrimination, risk assessment, notification and consultation. Switzerland was still awaiting answers to its detailed questions to the relevant Members, or re-admission of Swiss exports. The European Communities reported on useful bilateral contacts with Switzerland, and indicated that the European Communities was undertaking an inventory of all national BSE-related measures in order to notify them. In addition, the European Communities would propose that EC member States harmonize their conditions for import from Switzerland. Chile indicated that, based on OIE recommendations on BSE, it had authorized bovine semen imports from France and was processing a request from the United Kingdom. No official request to export bovine semen had been received from Switzerland.

71. In November 1998, Switzerland and the Slovak Republic reported that they were close to a short-term solution regarding the Slovak import ban on Swiss dairy. In the longer term, a few technical issues remained to be settled. In March 1999, Switzerland informed the Committee that a mutually satisfactory solution regarding Slovak importation of Swiss milk and milk products had been found. Chile reported that its measure affecting imports of bovine semen had been modified.

26. Canada - Zoosanitary import policies pertaining to BSE

Raised by:	European Communities
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, paras. 24-25)
Relevant document(s):	G/SPS/N/CAN/18
Solution (if reported):	

72. The European Communities argued that the Canadian policy went beyond what could be scientifically justified, and was furthermore not in conformity with the OIE Code. The European Communities noted that (i) no distinction was made between high and low incidence countries; (ii) there were provisions for whole-herd slaughter and slaughter of mother as well as of progeny despite BSE not being considered as a herd disease and unfinalized investigations on maternal transmission; and, (iii) the Canadian policy required BSE to have been notifiable for six years under an active surveillance programme and that imports would be allowed only after six years of absence of the disease. Also, the proposed policy implied that Canada would not accept meat from any country which had imported meat and bone meal from a country which had a case of BSE. Under these conditions only one EC member State would qualify to export meat to Canada. Canada explained that while the BSE policy was already in force, some changes were proposed. It was on these draft changes that comments were being sought. The time for comments would be extended.

27. European Communities – Measures related to BSE

73. In May and October 1996, the European Communities informed the SPS Committee about the development of BSE, and the measures taken³. This information is contained in G/SPS/W/67 and G/SPS/GN/8.

74. In June 2000, the European Communities reminded the Committee that since the inception of the 1996 BSE crisis, several countries had banned imports of a range of bovine products, including milk, milk products and bovine semen. Although no Member was maintaining restrictions on milk and milk products due to BSE, several Members were still applying import restrictions on bovine semen. The European Communities was very concerned about the legitimacy of the restrictions and reserved the right to take any necessary action with regards to unjustified trade barriers. The nature of the EC concerns were detailed in G/SPS/GEN/187.

(a) Cosmetics and BSE

Raised by:	Australia
Supported by:	Brazil, United States, Chile
Dates raised:	March 1997 (G/SPS/R/7, paras. 61-62), July 1997 (G/SPS/R/8, paras. 22-24)
Relevant document(s):	G/SPS/GEN/20, G/SPS/N/EEC/43
Solution (if reported):	

75. Australia expressed concern regarding an EC measure specifying that cosmetics containing certain bovine, ovine and caprine tissues etc. should not be placed on the market. This directive did not recognize the animal health status of supplying countries. The European Communities stressed that since BSE surveillance was still under development and since detection was difficult, there was considerable uncertainty surrounding the global prevalence of BSE. All comments received by the deadline would be taken into account, and the regulation would enter into force on 1 July 1997. In July 1998, the United States stressed that the measure would reduce or eliminate US exports of tallow

³ G/SPS/R/5 and Corr.1, paras. 6-9 and G/SPS/R/6, para. 53; see also G/SPS/N/EEC/30.

derivatives, soaps and cosmetics. The European Communities clarified that in light of WHO recommendations, measures had to be taken to reduce the risk of transmission of TSEs to humans through the food or feed chain, pharmaceuticals or cosmetics. Regarding BSE-freedom, the European Communities was not prepared to recognize any country as BSE-free, taking into account the difficulties of certifying such a status.

(b) Rules on "specified risk materials" in products of animal origin

Raised by:	United States
Supported by:	Argentina, Australia, Brazil, Canada, Chile, Colombia, Czech Republic, Mexico, New Zealand, Uruguay, Switzerland
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, paras. 10-14), March 1998 (G/SPS/R/10, paras. 13-19), June 1998 (G/SPS/R/11, paras. 34-38)
Relevant document(s):	G/SPS/GEN/36, G/SPS/GEN/45, G/SPS/GEN/67
Solution (if reported):	

76. In October 1997, the United States raised concerns with Decision 97/534 EC banning the use of certain specified risk materials, which might cause international shortages of needed medical products and have a major restrictive impact on trade in tallow and derivatives, gelatine, pharmaceuticals and many food products. This ban seemed to be more restrictive than necessary to achieve its public health objectives, especially as it applied to the United States and other regions where BSE was not known to exist. The European Communities indicated that since scientific studies had shown that its previous measures might not be sufficient, it had raised its level of protection. Members who considered themselves to present no risk with regard to TSEs could present an application for examination by the EC Scientific Committee. Argentina indicated that in its view, measures which failed to distinguish between countries infected with BSE and countries not infected were contrary to the OIE recommendations and the SPS Agreement. He distributed copies of a BSE risk analysis.⁴

77. In March 1998, the United States reiterated that the European Communities should recognize the BSE-free status of the United States and other regions. Several delegations welcomed the EC decision to provide additional time to review all the scientific evidence and other important implications of the proposed measure and provided comments. The European Communities clarified that entry into force of its measure had been postponed from 1 April to 1 July 1998, and that BSE-free countries could apply for an additional derogation until 1 January 1999.

78. In June 1998, the European Communities reported that EC member States were still unable to reach a common position on the issue, and that the EC Decision would therefore not enter into force until 1 January 1999. In the meantime, member States had introduced a number of measures. The EC Commission was also submitting new legislation for approval, taking into account the OIE classification of countries with respect to BSE.

⁴ Argentine Scientific Advisory Committee on Bovine Spongiform Encephalopathy (1st Meeting), April 7-8-9-10, 1997, Buenos Aires, Argentina, "Secretaría de Agricultura, Ganadería, Pesca y Alimentación".

(c) Gelatin imports

Raised by:	Brazil
Supported by:	Argentina, Australia, Chile, Mexico, Thailand, United States
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, paras. 8-9), March 1998 (G/SPS/R/10, para. 16), September 1998 (G/SPS/R/12, paras. 22-23), November 1998 (G/SPS/R/13, para. 19), July 1999 (G/SPS/R/15, paras. 9-11), November 1999 (G/SPS/R/17, paras. 6-7), March 2000 (G/SPS/R/18, paras. 21-22)
Relevant document(s):	G/SPS/GEN/133, G/SPS/N/EEC/74
Solution (if reported):	

79. In October 1997, Brazil indicated that its gelatin exports had been negatively affected by French requirements for specific production methods, which in Brazil's view lacked scientific justification. Where BSE had been diagnosed, raw materials for gelatin were considered low risk products. In addition, there had never been a case of BSE in Brazil. The European Communities responded that the French decision had been taken in the expectation of EC provisions which would introduce conditions related to microbiological and chemical criteria, and minimum requirements related to BSE. The OIE Code required certain provisions which in the EC view Brazil did not fulfill, and Brazil had not presented an application to the European Communities to request recognition of its TSE-free status.

80. Brazil reiterated its concerns in March 1998, and indicated that an EC questionnaire on animal feeding in Brazil would soon be officially provided to the EC authorities. In September 1998, Brazil reported that despite numerous bilateral talks, no progress had been made. The European Communities noted that the origin of the problem was that Brazil considered itself as BSE-free, while in the EC view no country could be designated as BSE-free. Both countries agreed that there had been some misunderstandings and were willing to resolve them through further contacts. In November 1998, Brazil welcomed a new French decision which took into account some of the Brazilian comments, and urged France to implement these new requirements as soon as possible.

81. In July 1999, Brazil acknowledged the EC notification on the matter, but remained concerned as its gelatin exports were still interrupted. The proposed EC legislation, which was not based on a risk assessment, would severely impact the ability of non-European countries to supply gelatin to the EC market. Brazil asked that the European Communities accept other countries' measures as equivalent. The European Communities explained its new measure, and invited all Members to comment in writing. In November 1999, both Members reported that they had decided to pursue the matter bilaterally. In March 2000, Brazil and the European Communities made a joint communication announcing that constructive consultations had taken place, and that the European Communities would evaluate the relevant documentation provided by Brazil.

28. France – Certification requirements for pet food

Raised by:	United States
Supported by:	Chile
Dates raised:	March 1997 (G/SPS/R/7, paras. 7-8), July 1997 (G/SPS/R/8, paras. 20-21)
Relevant document(s):	G/SPS/GEN/18
Solution (if reported):	

82. In March 1997, the United States expressed concern with regard to French certification requirements adopted under national legislation which blocked US exports of pet food and had not been notified to WTO. Bilateral exchanges with France had produced no progress. The European Communities regretted that their internal procedure for notification of national measures had delayed

notification of the French measure in question. The measure had been based on discussions and recommendations at the EC Commission level, recommendations by the WHO, as well as parallel scientific discussions in the United Kingdom and France.

83. In July 1997, the United States again raised concerns with the French measure for protection from TSEs. The measure did not account for the fact that the United States was BSE-free, and did not seem to have a scientific basis. Furthermore, the measure applied to species not affected by TSEs, such as poultry and fish. Chile expressed concern regarding the effect the regulation might have on trade in fishmeal. The European Communities pointed out a few inaccuracies in the US document, and noted that the provisions banning the use of frozen animals or animal cadavers were not necessarily addressing health issues, but image and quality, and were therefore not strictly relevant under the SPS Agreement. Discussion of the matter continued within the European Communities.

29. India – Import restrictions on bovine semen

Raised by:	Canada, European Communities
Supported by:	United States
Dates raised:	March 1999 (G/SPS/R/14, para. 19), (G/SPS/R/18, paras. 23-25), June 2000 (G/SPS/R/19, paras. 24-25), November 2000 (G/SPS/R/20, paras. 18-22)
Relevant document(s):	G/SPS/GEN/113
Solution (if reported):	

84. In March 1999, the European Communities indicated that bilateral contact with India regarding import restrictions on bovine semen had not been successful, and submitted a list of specific questions. In March 2000, the European Communities reported that no information had been received from India, although there had been some bilateral and multilateral contacts. India presented some information to the EC delegate at that time.

85. In March 2000, Canada expressed concern that India was banning imports of bovine semen from Canada because of BSE concerns, although Canada was BSE-free, and although BSE was not transmissible through semen according to the OIE. India clarified that the measure was a licensing process, not a ban, which had been imposed to avoid inadvertent introduction of BSE or scrapie into India. India had prepared a questionnaire for its trading partners and was planning to carry out a risk assessment based on the responses. The representative of India indicated that he would bring the Canadian concerns to the attention of his authorities in order to solve the problem bilaterally as soon as possible.

86. In June 2000, Canada informed the Committee that bilateral consultations had failed to resolve the matter, and that India continued to restrict Canadian exports of bovine semen despite (i) Canada being BSE-free, (ii) OIE confirmation that BSE was not transmissible through semen, (iii) the OIE specifically not calling for restrictions on trade in bovine semen, and (iv) the absence of a risk assessment to justify India's ban on bovine semen. Canada asked that India remove this restriction. India noted that recent bilateral consultations had been helpful and that efforts were being made to find a solution to the dispute.

87. In November 2000, Canada, supported by the European Communities, reiterated its concerns regarding India's BSE-related restrictions on bovine semen imports, despite Canada's BSE freedom, and despite agreement in the OIE and other veterinary bodies that BSE was not transmitted by semen. In September 2000, India had indicated that it intended to continue this unjustified prohibition, despite the lack of risk assessment for the measure. India reported that detailed bilateral consultations were ongoing. The Indian Animal Husbandry Commission had met on 11 September 2000 and had noted

the findings of the EC Scientific Steering Committee (SSC) regarding the difficulty of making precise estimates of the risks of infectivity of various products including semen.

88. India further reported that it had sought detailed information from the OIE regarding the basis for determining that BSE was not transmitted by semen, as well as information on the criteria for determining if a country or zone was free from BSE. However, to date no reply had been received from the OIE.

89. The European Communities observed that India was referring to a scientific opinion which had been published in 1998, which had subsequently been modified through various meetings of the OIE. The representative of the OIE indicated that the issue of bovine semen had been examined on various occasions at the OIE, and the results of these examinations had been provided to India, however, the OIE would again send India all of the relevant information.

30. Israel - Notification G/SPS/N/ISR/2 on TSE-related import restrictions of live cattle

Raised by:	European Communities
Supported by:	Switzerland
Dates raised:	November 1998 (G/SPS/R/13, paras. 35-36)
Relevant document(s):	G/SPS/N/ISR/2
Solution (if reported):	

90. The European Communities said that it was not entirely clear how Israel categorized countries' BSE status, and that the notification did not provide sufficient information. It listed a number of requirements which appeared not to be justified, and were not based on OIE recommendations. The European Communities requested an explanation of the notified legislation, and submitted a number of questions for written comment by Israel. Israel requested the EC questions in writing.

31. Israel – Measures affecting imports of bovine meat

Raised by:	Uruguay
Supported by:	Argentina, Brazil
Dates raised:	March 1997 (G/SPS/R/7, paras. 9-11), July 1997 (G/SPS/R/8, para. 6), November 2000 (G/SPS/R/20, para. 32)
Relevant document(s):	Raised orally
Solution (if reported):	Issue resolved.

91. In March 1997, Uruguay indicated that Israel had adopted BSE-related measures, including requirements that bovine meat come from cattle with a maximum age of 36 months, which had not been notified to WTO. Since the measure did not take into account the sanitary conditions in the country of origin, the potential effect on bilateral trade was serious. Israel replied that it had notified exporting countries of the planned measure which was based on a questionnaire circulated to beef exporting countries. Israel took note of the concerns expressed. In July 1997, Uruguay reported that bilateral consultation were taking place and that progress had been satisfactory. In November 2000, Uruguay reported that the issue had been resolved.

32. Poland - Notifications on veterinary measures and measures on animal products including gelatin

Raised by:	Switzerland, United States
Supported by:	Brazil, European Communities
Dates raised:	June 1998 (G/SPS/R/11, paras. 48-49), September 1998 (G/SPS/R/12, paras. 46-48)
Relevant document(s):	G/SPS/N/POL/3, G/SPS/N/POL/5, G/SPS/N/POL/13, G/SPS/N/POL/14 and Add.1
Solution (if reported):	

92. In June 1998, the United States sought clarification of the status of this temporary ban, its scientific basis, and whether future amendments were being considered. Brazil, the European Communities, Switzerland and the United States expressed hope that the disease status of the supplying country, scientific factors related to the infectivity of gelatin and gelatin-containing products, as identified by the OIE, and non-discrimination between suppliers with similar BSE conditions would all be taken into account in future amendments. Poland indicated that the measure in question would remain in force until the end of June 1998, and would be replaced by a measure reflecting the present state of scientific knowledge. Regarding different treatment of Switzerland, the United Kingdom and Ireland, the new regulations had not yet been adopted by the Polish Government. Poland committed to providing a response on the basis of written questions from Switzerland.

93. In September 1998, Switzerland reported on informal consultations with Poland regarding border measures in relation to BSE which differentiated only between countries with a higher incidence of BSE and those of low incidence. This constituted a departure from OIE recommendations, which also took into account surveillance and prevention systems. The European Communities indicated that imports from herds without BSE history should be accepted even for products in the highest risk category. Poland explained that the measure had been taken in relation to the BSE situation in the concerned countries. Bilateral consultations were ongoing with the United Kingdom, Ireland and Switzerland. The BSE situation was under permanent surveillance and all results would be taken into account during the year-end review of Poland's regulations.

33. South Africa - Prohibition on bone-in beef imports from member States of the European Communities

Raised by:	European Communities
Supported by:	
Dates raised:	March 1998 (G/SPS/R/10, paras. 32-33), September 1998 (G/SPS/R/12 and Corr.1, paras. 19-21)
Relevant document(s):	G/SPS/N/ZAF/2, G/SPS/GEN/95
Solution (if reported):	

94. In March 1998, the European Communities noted that the South African ban on beef imports applied to all EC member States. This was unjustified in light of measures taken at EC and national level in countries where BSE cases had occurred. In addition, South African requirements were not in accordance with OIE standards. South Africa stressed that the European Communities were a major supplier of meat to South Africa, and that South Africa had no interest in having consumers consider EC meat as unsafe. However, South Africa wanted to maintain its BSE-free status, and protect human and animal health. South Africa invited the European Communities to provide written comments.

95. In September 1998, the European Communities again raised this issue. South Africa replied that written comments from the European Communities had only recently been received. In March and July 1998, South Africa had provided to the European Communities a written explanation of the measure in question. Furthermore, South Africa had reiterated its invitation to the European Communities to submit evidence which would permit a re-evaluation of its decision, possibly on an individual EC member State basis. In accordance with Article 5.7, South Africa would review its measure in the light of additional information. The European Communities recognized that it had yet to provide a written reply to South Africa's request for information, and welcomed the invitation for bilateral discussions of the issue.

34. United States – Measures related to BSE

Raised by:	European Communities
Supported by:	Argentina, Chile, New Zealand, Switzerland
Dates raised:	March 1998 (G/SPS/R/10, paras. 10-12), June 1998
Relevant document(s):	G/SPS/GEN/66, G/SPS/N/USA/106
Solution (if reported):	

96. In March 1998, the European Communities complained that recent US measures were neither in conformity with the SPS Agreement nor with the OIE, and were singling out Europe. The European Communities rejected US claims that inadequate surveillance in relation to BSE was a problem within the European Communities and indicated that the European Communities was about to introduce a harmonized surveillance system. The United States replied that it was receiving numerous comments to its interim measure, which was intended to protect animal and consumer health from BSE in light of the unclear information on the distribution of BSE on the European continent. Trade would resume when the countries in question had systems that met US criteria. The United States would evaluate the data submitted, and would take the necessary measures based on science and risk assessment. Argentina noted that BSE was a European problem with important potential consequences for the rest of the world, and that it required a joint effort of political and scientific authorities to find a solution based on the available knowledge to avoid unnecessary trade disruption.

97. In June 1998, the European Communities drew attention to the recent OIE indication that when a country had no native cases of BSE and surveillance systems were in place for seven years, trade in meat could take place. The OIE also provided the basis on which trade could take place with countries of low incidence of BSE. The criteria on which US decisions would be based were still not clear to the European Communities. The United States announced that comments and information received were being incorporated into the risk assessment, taking into account the discussions in the OIE framework. The updated rule would soon be published and notified, and responses would be provided to all comments received.

B. ISSUES RELATED TO FOOT-AND-MOUTH DISEASE (FMD)

35. Japan - Measures regarding FMD

Raised by:	Argentina
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, para. 46)
Relevant document(s):	G/TBT/Notif.97.357
Solution (if reported):	

98. Argentina raised questions on the notified TBT measure, which authorized imports of FMD inactivated vaccine (but only the O type of FMD inactivated virus), and exempted traders from undergoing the usual approval procedures. Three countries were designated as suppliers: Germany, the Netherlands and the United Kingdom. Argentina sought clarification regarding (a) the current FMD-status of Japan since the decision to import FMD vaccines took effect; (b) the criteria used to designate only three sources of supply; (c) whether Japan considered itself a "zero-risk" country and whether a risk assessment had been carried out in support of this "zero-risk" status; and (d) since Argentina was declared free of FMD with vaccination by the OIE, how Japan viewed its current policy not to import Argentine meat. Japan explained that the notified measure was an amendment to the approval procedures regarding the import of vaccines for emergencies. It was a precautionary measure following the outbreak of FMD in Chinese Taipei in March 1997. Argentina indicated it would provide its questions in writing to Japan.

36. Korea – Import restrictions on beef

Raised by:	Argentina
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, paras. 13-14)
Relevant document(s):	G/SPS/GEN/109 and G/SPS/GEN/130
Solution (if reported):	

99. Argentina raised concerns regarding Korea's denial of access to Argentine beef without specifying its sanitary requirements or visiting Argentina to verify its sanitary status. Korea replied that since it had been free of FMD for 60 years, it applied very strict requirements. Korea believed it was acting consistently with OIE recommendations, and offered to discuss the matter bilaterally.

37. Mexico - Import restrictions on beef

Raised by:	Argentina
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, para. 12)
Relevant document(s):	G/SPS/GEN/109 and G/SPS/GEN/129
Solution (if reported):	

100. Argentina indicated it had not received a satisfactory answer to repeated requests that Mexico provide information on its specific sanitary requirements for beef imports and the related risk assessments. Argentina recalled that it was free of FMD. Mexico took note of Argentina's concerns and expressed hope to resolve the matter bilaterally.

38. Norway – Restrictions on gelatin imports

Raised by:	Brazil
Supported by:	
Dates raised:	March 1996 (G/SPS/R/4, para. 47), September 1998 (G/SPS/R/12, paras. 24-25), November 1998 (G/SPS/R/13, paras. 19-20)
Relevant document(s):	Raised orally
Solution (if reported):	Import conditions clarified.

101. In March 1996, Brazil informed the Committee that Norway had halted the issuance of import licenses for Brazilian gelatin because of the existence of FMD in Brazil. Consultations with Norway had been initiated in 1995, and Norwegian authorities had reportedly declared the problem was solved. Nevertheless, import licenses continued to be denied. Norway stated that the ban on gelatin

imports from Brazil would be lifted in the context of recent changes to import regulations. The two Members agreed to continue their consultations.

102. In September 1998, Brazil reported that bilateral contacts had not resulted in a lifting of the ban. Norway explained the conditions it applied to imports of Brazilian gelatin, and stated that applications fulfilling these conditions would be accepted. In November 1998, Brazil thanked Norway for having clarified its import requirements. Brazil would have no problem meeting these requirements and looked forward to resuming its gelatin exports to Norway.

39. Turkey – Import ban on livestock

Raised by:	United States, Hungary
Supported by:	Australia, European Communities, New Zealand, Uruguay
Dates raised:	June 1998 (G/SPS/R/11, para. 33), September 1998 (G/SPS/R/12, paras. 7-10), June 2000 (G/SPS/R/19, paras. 12-14)
Relevant document(s):	Raised orally
Solution (if reported):	

103. In June 1998, the United States sought clarification from Turkey whether its FMD-related import ban on cattle and meat products had ever been officially published or notified to the WTO. The United States requested an explanation of the measure's scientific basis, especially in view of the FMD-free status of the United States. In September 1998, the United States noted that Turkey had extended its import ban for the eighth time. Turkey replied that the policy was geared at preventing the spread of FMD in the country. A rigorous nation-wide eradication programme was in place, and considerable progress had been made. Turkey believed that the application of temporary measures with the objective of creating the necessary animal health conditions within its borders was justified, but was open to dialogue with its trading partners to reach a mutually agreeable solution.

104. In June 2000, Hungary recalled that several Members had challenged the WTO-consistency of Turkey's import restrictions on live cattle and beef meat. Hungary had been free from FMD for nearly 20 years, and had pursued FMD control policies which made vaccination redundant. Hungary suggested the Turkish ban violated Article 2.2 of the SPS Agreement. Based on Articles 5.1 and 5.8, Hungary asked Turkey to provide its risk assessment on the importation of live cattle and beef from FMD-free countries. New Zealand asked if Turkey had an import licensing system, and if so, how risk was assessed and how licenses were issued. Turkey committed to providing a report on an interdepartmental review of the sanitary measures.

C. OTHER ISSUES CONCERNING ANIMAL HEALTH

40. Argentina - Temporary prohibition of fresh pork and products

Raised by:	European Communities
Supported by:	
Dates raised:	March 1998 (G/SPS/R/10, paras. 34-35)
Relevant document(s):	G/SPS/N/ARG/9
Solution (if reported):	

105. The European Communities observed that the Argentine measure applied to the entire European Communities. The European Communities had taken measures to regionalize the EC member States with restrictions with regard to Classic Swine Fever. Argentina replied that it believed in the principle of regionalization, but had found that there was no basis to assume compliance within the European Communities. Argentina had requested information from a number of EC member

States, but only four countries had responded. Classic Swine Fever was a highly infective OIE List A disease which had not occurred in Argentina since 1985. Argentina would assess information received so as to adjust its measure as appropriate.

41. Australia - Notification G/SPS/N/AUS/72 on quarantine requirements for chicken meat

Raised by:	Thailand
Supported by:	European Communities
Dates raised:	September 1998 (G/SPS/R/12, paras. 42-45)
Relevant document(s):	G/SPS/N/AUS/72, G/SPS/GEN/90, G/SPS/GEN/96, see also G/SPS/R/13, G/SPS/GEN/137 and GSPS/W/107/Rev.1
Solution (if reported):	

106. Thailand believed that Australia's requirement for the importation of chicken meat was in excess of what was needed to protect health, and was not viable for commercial manufacturing. The European Communities added that Australia's recommended temperature and time requirements created an extreme and unnecessary barrier to trade, and committed to providing a list of relevant questions to Australia. Australia replied that its import requirements were based on scientific principles and data. AQIS had based the final heating requirements on research on the inactivation of infectious bursal disease virus (IBDV) strain CS88, a highly virulent strain exotic to Australia. Extensive consultations had been held with Thai and other quarantine authorities to discuss the issue, and Australia was prepared to provide any further information requested. Australia was considering whether additional scientific research could be usefully conducted to enhance scientific understanding and methods of inactivation of various poultry pathogens.

42. Australia – Ban on salmon imports

Raised by:	Canada, United States
Supported by:	
Dates raised:	October 1996 (G/SPS/R/6, paras. 13-15), March 1997 (G/SPS/R/7, para. 58)
Relevant document(s):	G/SPS/N/AUS/3
Solution (if reported):	Dispute settlement (W/DS18 and W/DS26, respectively). Mutually agreed resolution between Canada and Australia reported in May 2000.

107. In October 1996, the United States reported that Australia maintained a ban on North American fresh, chilled or frozen salmon on the grounds that imports might transmit diseases and pathogens to Australian fishery stocks. In 1994, Australia published a draft risk assessment which indicated there was little risk from imported North American salmon. However, Australia did not adjust its measure to reflect the results of that risk assessment, but instead undertook another risk assessment, completed in May 1996, which again failed to find a scientific basis for maintaining the ban. The United States expected that when the final report was published, the ban would be lifted, especially since the salmon in question complied with OIE standards.

108. Australia indicated that the 1995 draft risk assessment had been revised in response to the large number of comments received. Comments, including from the United States and Canada, had again been received on the 1996 draft risk assessment, which would be finalized by the end of 1996. Australia noted that the OIE standard did not meet its appropriate level of protection. In March 1997, Canada and the United States again noted their concern that Australia had decided to maintain its ban on salmon imports. Canada had formally requested the establishment of a panel in the Dispute Settlement Body.

43. Bolivia - Restrictions on poultry meat imports

Raised by:	Chile
Supported by:	
Dates raised:	November 2000 (G/SPS/R/29, para. 94)
Relevant document(s):	Raised orally
Solution (if reported):	

109. Chile reported that in August 2000 it had consulted with the authorities of Bolivia, in the context of Article 5.8 of the SPS Agreement, regarding requirements on poultry meat imports with respect to Inclusion body hepatitis. This disease was endemic to Bolivia and restrictions on imports from Chile were not justified. Chile hoped that this issue would soon be resolved. The representative of Bolivia indicated that he would transmit this information to his authorities.

44. Czech Republic – Regulation concerning warehouses and silos

Raised by:	European Communities
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, para. 54)
Relevant document(s):	Raised orally
Solution (if reported):	EC satisfied with Czech clarifications.

110. The European Communities sought clarification of a Czech regulation requiring warehouses and silos for animal feed to be under state control for purposes of quality assurance. The Czech Republic indicated that it wished to pursue the matter bilaterally with EC veterinary authorities. In February 2001, the Czech Republic indicated that the European Communities had accepted its clarifications.

45. El Salvador – Restrictions on meat and dairy products

Raised by:	Uruguay
Supported by:	
Dates raised:	November 1999 (G/SPS/R/17, para. 85), November 2000 (G/SPS/R/20, para. 32)
Relevant document(s):	Raised orally
Solution (if reported):	Issue resolved.

111. In November 1999, Uruguay reported on problems with exports of meat and dairy products to El Salvador on sanitary grounds, although no concrete sanitary problems or regulations had been mentioned. The representative of El Salvador indicated that these concerns would be transmitted to the appropriate authorities. In November 2000, Uruguay reported that the issue that been resolved.

46. European Communities - Ban on antibiotics in feed

Raised by:	United States
Supported by:	Australia, Canada
Dates raised:	July 1999 (G/SPS/R/15, paras. 26-29)
Relevant document(s):	Raised orally
Solution (if reported):	

112. The United States noted the failure of the European Communities to notify the ban on four antibiotics used in animal feed to enhance production that had been adopted in December 1998. Canada and Australia shared the US concern, and Canada requested to be informed when the European Communities reviewed its measure, which it understood to be provisional. The European Communities replied that this was an interim protective measure which would be re-examined before the end of December 2000. The results of the re-examination would be shared with Members, as well as published electronically. The measure had not been notified because it did not contain any provision applicable to imports, and therefore had no effect on trade.

47. European Communities – Salmonella-related restriction on fishmeal imports

Raised by:	Chile and Peru
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, paras. 48-50)
Relevant document(s):	Raised orally
Solution (if reported):	

113. Chile and Peru sought clarification regarding the EC directive governing exports of fishmeal, which was not applied to substitutes to fishmeal. These substitutes could also potentially be contaminated with salmonella, as had been confirmed by recent research carried out in the United Kingdom. The European Communities indicated that the directive was justified on the basis of available scientific information, although working groups were considering whether similar criteria should be applied to feedingstuffs of vegetable origin. Some EC member States had introduced heat treatment requirements, although others had found that there were not sufficient grounds for introducing such criteria.

114. Chile also raised concerns with unilateral import prohibitions by France and Italy affecting fishmeal for feeding ruminants, including mixtures with bone meal, with the alleged objective of preventing risk arising from contamination. The European Communities answered that it needed to effectively enforce its mammalian protein feed ban to ruminants, but was facing practical difficulties in segregating the origins of various raw materials, including fish. The European Communities indicated it would examine the issue together with the two member States involved.

48. India – Restrictions on imports of horses

Raised by:	European Communities
Supported by:	
Dates raised:	March 1999 (G/SPS/R/14, para. 20)
Relevant document(s):	G/SPS/GEN/112
Solution (if reported):	

115. The European Communities indicated that trade in horses with India had been interrupted, although the necessary health guarantees had not been identified. Import restrictions were based on the presence of contagious equine metritis. The EC representative presented a series of questions to India, including a request for justification of India's measure which was more stringent than the OIE Code.

49. United States - Regionalization in relation to animal health

Raised by:	European Communities
Supported by:	
Dates raised:	May 1996 (G/SPS/R/5, para. 15)
Relevant document(s):	G/SPS/N/USA/37
Solution (if reported):	

116. The European Communities welcomed a US notification on the introduction of regionalization in import policy and internal control policy in relation to animal health, but was concerned that the proposed measure did not meet the criteria of a true regionalization approach in conformity with what had been discussed at the OIE. The United States stressed the purpose of the proposed measure was to facilitate trade and to fulfil the obligation of the United States under the SPS Agreement, in particular Article 5.2 on risk assessment.

50. Venezuela - Import conditions for pork meat and products

Raised by:	European Communities
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, para. 67)
Relevant document(s):	Raised orally
Solution (if reported):	

117. The European Communities reported that Venezuela had denied access to Danish pork meat and products without clearly indicating the import conditions or the relevant provisions. The EC representative urged the Venezuelan authorities to notify the relevant measures, giving other Members a chance to comment.

51. Venezuela – Measures related to Avian Influenza

Raised by:	United States
Supported by:	
Dates raised:	July 1997 (G/SPS/R/8, para. 25)
Relevant document(s):	G/SPS/GEN/19
Solution (if reported):	

118. The United States informed that non-pathogenic Avian Influenza had been detected in a few north-eastern US states. As a consequence, Venezuela had banned the importation of US poultry and products. The United States contested the scientific basis for this measure and was concerned that it had not been notified.

III. PLANT HEALTH

52. Australia – Notification on methyl bromide

Raised by:	European Communities
Supported by:	
Dates raised:	November 2000 (G/SPS/R/20, paras. 95-96)
Relevant document(s):	G/SPS/N/AUS/118
Solution (if reported):	

119. The European Communities was concerned with Australia's proposed introduction of minimum standards for fumigation with methyl bromide, which required a minimum temperature of 10 degrees for fumigation. This new measure could significantly constrain EC exports. The European Communities requested additional information on Australia's risk assessment and any other relevant evidence. Australia responded that the proposed standard was the result of quarantine breaches involving ineffective fumigation treatment of various imported goods. To improve the efficacy of fumigation prior to export, Australia developed a standard reflecting best practice guidelines in the use of methyl bromide. Australia was still considering the comments it had received on its notification of this proposed measure, and implementation of the new measure would be delayed until early 2001. With regard to the minimum temperature requirement, this was based on expert advice and reflected the minimum temperature requirement established by the European Plant Protection Organization.

53. Australia – Import restrictions on durian

Raised by:	Thailand
Supported by:	European Communities, India, Philippines
Dates raised:	November 2000 (G/SPS/R/20, paras. 11-14)
Relevant document(s):	G/SPS/GEN/217, G/SPS/GEN/218
Solution (if reported):	

120. Thailand reported that it had sought access to the Australian market for durian since 1991, but Australia had notified its draft import risk analysis only in February 1999. In August 2000, Australia informed Thailand that durian fruit imports would be permitted only under unduly restrictive conditions, including excessively trade restrictive sampling requirements. Furthermore, the seasonal limitation on shipments, as well as the requirement that fruit come only from the eastern region of Thailand, did not appear to be justified.

121. Australia noted that it had been difficult to obtain accurate information on the relevant anthropod pests and diseases present in Thailand, although the numerous bilateral contacts on this matter had resulted in an expansion of the scientific information available. Australia noted that the draft conditions established for import of fresh durian fruit had been discussed with the Thai government. The Australian delegate explained the justification for the requirements and acknowledged that the conditions were very strict, but justified based on the pest and disease situation of Thailand. Nonetheless, these conditions would be reviewed after one year of trade.

54. Australia – Restrictions on imports of tropical fresh fruit

Raised by:	Philippines, ASEAN
Supported by:	Brazil, European Communities, India, Korea, Malaysia, Thailand, United States
Dates raised:	March 2000 (G/SPS/R/18, para. 67), June 2000 (G/SPS/R/19, paras. 15-20)
Relevant document(s):	G/SPS/GEN/189, G/SPS/GEN/194
Solution (if reported):	

122. In March 2000, the Philippines reported that its exports, including mangoes, bananas and pineapples, faced phytosanitary restrictions in Australia. Australia explained that in response to a request for access, Australia conducted an open, transparent and consultative process of scientific risk assessment and risk management to avoid the introduction of diseases. Both countries indicated that they were conducting bilateral consultations on the matter.

123. In June 2000, the Philippines pointed out that major ASEAN exports to Australia faced stringent SPS measures that were not based on a risk assessment. These measures were more restrictive than necessary, and should be reviewed within a reasonable period of time. Malaysia suggested Australia carry out ASEAN-wide risk assessments. Australia offered detailed comments on each of the points raised by the Philippines and noted that a formal response would be provided in due course. In response to Malaysia, Australia explained that pest risk analysis was specific to the trading partners involved and varied according to the exporter's pest status.

124. The United States urged Australia to expedite its decisions regarding market access for Florida citrus and California table grapes. Australia replied that an import risk analysis had been completed for table grapes, several appeals had been addressed, and the relevant information was about to be released. In response to Brazil's comments regarding its market access applications for mango and papaya, Australia confirmed that these were on the list of matters to be considered by Australian risk analysts. With reference to India's concern about market access for mangoes, Australia reported that Indian authorities had provided helpful information regarding the efficacy of treatment for pests in mangoes, and that Australia was currently evaluating that information. Regarding EC concerns, Australia confirmed that an import risk analysis was being conducted on bulbs. Australia noted that it was necessary to set priorities for risk assessment given scarce financial and human resources.

55. Brazil – Import prohibition of coconut palms and related products

Raised by:	Philippines
Supported by:	Malaysia, Sri Lanka
Dates raised:	June 1998 (G/SPS/R/11, paras. 25-26), September 1998 (G/SPS/R/12 and Corr.1, paras. 5-6)
Relevant document(s):	G/SPS/N/BRA/1
Solution (if reported):	

125. In June 1998, the Philippines submitted a series of detailed questions to Brazil regarding its import prohibition of coconut palms and related products. Brazil answered that the measure was in place to prevent the spread of quarantine pests. Brazil continued to import coconut palms and related products from pest-free countries, if shipments were accompanied by a phytosanitary certificate, but only one country had applied for pest-free status. Brazil stressed that its measure was in conformity with the SPS Agreement and the text of the IPPC, and that the risk assessment methodology used had been notified.

126. In September 1998, the Philippines reported that it had received no clear answers from Brazil, and reiterated its questions. Brazil specified which diseases it was concerned about. Its phytosanitary requirements had been extended to desiccated coconut, as there was a risk of transmission of pests or exotic pathogens. Nonetheless, Brazil was prepared to discuss proposals for risk evaluation and recognition of pest-free areas.

56. Brazil – Restrictions on imported wheat

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, paras. 16-17)
Relevant document(s):	Raised orally
Solution (if reported):	

127. The United States raised concern regarding Brazilian restrictions on wheat imports intended to prevent the establishment of the fungus *tilletia controversa* (TCK bunt or Dwarf bunt). However, a 1996 bilateral agreement was based on the understanding that the fungus in question could not be established in Brazil, and the United States was not aware of scientific evidence that might alter this conclusion. Brazil responded that it had implemented new legislation on risk assessment and risk management for several products as a result of harmonization efforts in the MERCOSUR context. Thus, a certificate of origin was required for wheat, to establish that the product originated in a pest-free zone. Scientific consultations between Brazilian and US experts had yet to produce a final report on the risk posed by *tilletia controversa* and *tilletia indica* (Karnal bunt). The 1996 bilateral agreement did not preclude Brazil from applying its internal legislation.

57. Chile – Restrictions on imports of wheat and fruit

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, paras. 18-19)
Relevant document(s):	G/SPS/GN/14
Solution (if reported):	

128. The United States expressed concerns that Chile's import requirements for wheat and fruit did not recognize regional conditions in line with the SPS Agreement, nor IPPC guidelines relating to pest-free areas. With respect to wheat, Chile replied that the United States had not asked to be recognized as free of *tilletia indica* (Karnal bunt). Regarding fruit, Chile stressed that it had recognized areas free of the fruit flies *anastrepha fraterculus* and *ceratitis capitata* (Mediterranean fruit fly) in California, which would facilitate the entry of US exports.

58. Czech Republic - Imports of potatoes

Raised by:	European Communities
Supported by:	Argentina
Dates raised:	October 1996 (G/SPS/R/6, para. 27), October 1997 (G/SPS/R/9/Rev.1, paras. 51-53)
Relevant document(s):	G/SPS/N/CZE/6, G/SPS/N/CZE/12, G/SPS/GEN/42
Solution (if reported):	Second active ingredient approved, imports from EC resumed.

129. In October 1996, the European Communities expressed concern that the Czech Republic had not specified a final date for comments on G/SPS/N/CZE/12. The Czech Republic committed to pursuing the matter bilaterally with the European Communities. In October 1997, the European Communities expressed concern over Czech import requirements for ware potatoes, which it did not believe to be based on scientific principles. Moreover, equivalent methods of sprout treatment were not allowed. The European Communities pointed out that a Codex standard existed for the active ingredient involved. Argentina was concerned that the treatment had to be applied before harvest, making a post-harvest decision to export to the Czech Republic impossible, although alternative treatment methods existed. Furthermore, it was not clear to Argentina whether the registration procedure concerned the entire product formula or only the active ingredient.

130. The Czech Republic explained that imported plant products could not be circulated domestically if they contained residues of active plant protection ingredients not registered in the Czech Republic. Only one active ingredient had been approved, but registration procedures for a second one were under way. The Czech Republic believed that bilateral channels for resolving the issue, notably within the framework of the European Association Agreement, were far from exhausted.

131. In February 2001, the Czech Republic reported that the second active agent had been approved since 16 March 1998, and imports from the EC had resumed.

59. European Communities - G/SPS/N/EEC/93 on wood packing material

Raised by:	Canada
Supported by:	Chile, Japan, Korea, United States
Dates raised:	November 2000 (G/SPS/R/20, paras. 33-35)
Relevant document(s):	G/SPS/N/EEC/93
Solution (if reported):	

132. Canada recognized that wood packing material was widely considered to be at risk of containing plant pests. However, it was used for a very large volume of products moving in international trade, and the proposed EC measure would cover 69% of Canada's exports to the EC. Furthermore, the IPPC was working on a comprehensive standard for all countries and all pests, to be completed by July 2002, it would be best for all countries to focus their efforts on developing an international standard and refrain from taking unilateral actions in this regard. The United States considered that it would be impossible to implement the certification and marking requirements within the time-period set out in the EC notification. Korea stressed the need for the European Communities to implement the least trade restrictive measure which would be effective, and in this respect to take into consideration the historic experience of trade without pest introduction, the processing of the packing materials, and the actual pest risks involved.

133. The European Communities replied that pine wood nematode had been detected in packing materials in 1998 and 1999, despite the existing EC requirements on wood packing materials. The EC Regulatory Committee for Plant Health was examining the comments which had been submitted on the EC notification. The European Communities was actively contributing to the IPPC efforts to develop an international standard, however this did not replace the need for an emergency measure to protect EC forests. It was now obvious that the EC measure would not be finalized and implemented on the 1 January 2000 date as initially proposed, and that bilateral and multilateral consultations would continue.

60. European Communities - Citrus canker

Raised by:	Argentina
Supported by:	Brazil, Chile, South Africa, Uruguay
Dates raised:	July 1997 (G/SPS/R/8, paras. 30-31), March 1998 (G/SPS/R/10, paras. 6-8), June 1998 (G/SPS/R/11, paras. 31-33)
Relevant document(s):	G/SPS/N/EEC/46, G/SPS/N/EEC/47, G/SPS/GEN/21, G/SPS/GEN/26
Solution (if reported):	Measure revised in 1998, problems persisting.

134. In July 1997, Argentina requested bilateral consultations with EC experts on the proposed measure on citrus canker, and that the measure be suspended during these consultations. South Africa requested that the European Communities reassess its measures in light of the fact that South Africa was free from citrus canker. The European Communities noted that it was preparing a response to the Argentine concern, and was open to consultations with interested parties. The European Communities was moving from a system with internal restrictions in the production areas of Italy, Greece and Corsica to a truly single market with free movement of goods. With no restriction on internal movement of fruit, and considering the risk of introduction and the related economic consequences, alternative protection for the main producing areas had to be considered. This included monitoring requirements in the exporting country, treatment and certification. The European Communities considered that its measures were based on science and minimized trade effects.

135. In March 1998, the European Communities reported that, in response to constructive consultations organized by the Chairman and involving Argentina, Chile, Uruguay, Brazil and South Africa, the measure had been revised and subsequently adopted. The revised text included the possibility for recognition of equivalent certification systems. Argentina agreed, but noted that negotiations on equivalence were not yet finished.

136. In June 1998, the European Communities indicated that it had come to the conclusion that, for the time being, Argentina could not objectively demonstrate the equivalence of its control measures with EC requirements. Argentina requested information on the risk assessment undertaken by the European Communities.

61. European Communities – Protected zones

Raised by:	Uruguay
Supported by:	Chile, Mexico, South Africa
Dates raised:	March 1997 (G/SPS/R/7, para. 60)
Relevant document(s):	Raised orally
Solution (if reported):	

137. Uruguay expressed concern about an EC decision to eliminate the criteria for protected zones within the European Communities, as this might result in a strengthening of phytosanitary requirements for the whole Community. This could also have negative consequences for citrus fruit exports from Chile. Delegations requested a clarification of the scientific basis for this proposal. The representative of the European Communities indicated he would forward the concerns to the relevant authorities. He clarified that according to the policy, access to the European Communities would depend on the conditions in the country of origin.

62. Honduras – Restrictions on imports of rough rice

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 55)
Relevant document(s):	Raised orally
Solution (if reported):	

138. The United States expressed concern that Honduras had not lifted its restrictions on imports of rough rice. Honduras assured the Committee that its authorities would attempt to find a rapid solution to the problem.

63. Indonesia - Restrictions on importation of fresh fruit

Raised by:	New Zealand
Supported by:	
Dates raised:	November 2000 (G/SPS/R/20, paras. 8-10)
Relevant document(s):	G/SPS/GEN/219
Solution (if reported):	

139. New Zealand noted that Indonesia had imposed restrictions on fresh fruit from New Zealand since the discovery of two fruit flies in a residential area of New Zealand in May 1996. No fruit flies were ever found outside a 200 meter zone around the initial incursion, and no fruit flies were trapped after three weeks. A number of WTO Members imposed restrictions on New Zealand fruit products following the initial incursion, but these restrictions were progressively lifted. However, Indonesia

continued to prohibit imports of fruit produced within a 15-km radius of the incursion and required cold treatment of all fruit from New Zealand. At bilateral consultations held just prior to the SPS Committee meeting, Indonesia had undertaken to review the information which New Zealand had already provided. Indonesia took note of New Zealand's concerns, and clarified that it needed further documentation supporting New Zealand's claim of freedom from Mediterranean fruit fly. However, Indonesia had no intention of maintaining measures which were not justifiable under the SPS Agreement and remained open to further consultations in order to achieve an acceptable resolution.

64. Indonesia - Fresh fruit and vegetables

Raised by:	Australia, United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 22)
Relevant document(s):	G/SPS/N/IDN/2
Solution (if reported):	

140. Australia and the United States sought clarification with regard to the scope of the Indonesian regulation on fresh fruit and vegetables. In bilateral discussions with Australia, Indonesian authorities had referred to a problem arising from national practice, which precluded the circulation of draft regulations. The United States and Australia urged Indonesia to consider legislative adjustments to enable WTO Members to receive information on proposed measures sufficiently in time to be assessed. Australia appreciated Indonesian efforts to meet requests for additional information. Indonesia regretted that the draft regulation had not yet been finalized, but assured the Committee that a document containing detailed information about the proposed regulations would be provided in due course.

65. Japan – Testing requirements for different varieties of apples, cherries and nectarines

Raised by:	United States
Supported by:	
Dates raised:	October 1996 (G/SPS/R/6, paras. 11-12), March 1997 (G/SPS/R/7, para. 57)
Relevant document(s):	Raised orally
Solution (if reported):	Dispute settlement (W/DS/76) – Parties reportedly close to a solution.

141. In October 1996, the United States reported that, under a 1995 bilateral agreement, Japan allowed two varieties of US apples into its market. US suppliers had to conduct lengthy and expensive tests to demonstrate that combined treatment of methyl bromide and cold storage was effective in killing codling moths on both varieties. These and other tests had demonstrated that the effectiveness of this treatment did not vary among different varieties of fruit. Nevertheless, Japan continued to block the introduction of new varieties of US fruit by requiring such redundant testing. The United States had formally initiated a consultation process with Japan under Article 5.8 of the SPS Agreement. Japan indicated that the formal exchange would be followed by a clarification process involving technical experts until a solution was reached based on scientific principles. In March 1997, the United States indicated it was reviewing new information provided by Japan. Japan noted that bilateral efforts would continue in order to reach a solution.

66. Japan - Plant quarantine regulations

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 26)
Relevant document(s):	G/SPS/N/JPN/19
Solution (if reported):	

142. The United States informed the Committee of bilateral discussion with Japan regarding its plant quarantine regulations. Both Members agreed that the communication process had flowed smoothly, and that this was a good example of how the transparency provisions of the SPS Agreement could enhance the understanding between Members on points of concern. Japan maintained that its proposed regulation was based on the pest-risk analysis guidelines of the IPPC.

67. Japan - Notification on amendment of the Japanese Plant Protection Law

Raised by:	United States
Supported by:	Australia, Canada, Chile, European Communities, New Zealand, Philippines (ASEAN), Uruguay
Dates raised:	November 1998 (G/SPS/R/13, paras. 31-34), November 1999 (G/SPS/R/17, para. 82)
Relevant document(s):	G/SPS/GEN/100, G/SPS/N/JPN/37
Solution (if reported):	

143. In November 1998, the United States noted that the draft regulation proposed the addition of 27 pests to the list of non-quarantine pests in Japan's Plant Protection Law. The United States, although encouraged by certain aspects of Japan's proposal, continued to have concerns regarding the basis and application of Japan's phytosanitary legislation. The legislative amendments did not appear to alter the current practice of requiring fumigation and other costly treatment for most non-quarantine pests, including those pests which were widespread in Japan and not subject to internal regulatory or quarantine controls. The United States urged Japan to take into consideration the IPPC definition of a quarantine pest. The European Communities asked Japan to explain the scientific rationale behind its measure, and the risk assessment it was based on. Japan replied that its definition of quarantine pests complied with the IPPC definition. The list of non-quarantine pests would be reviewed in the future with a view to expansion. Japan welcomed continued bilateral consultations on the matter.

144. In November 1999, the European Communities recalled its request for an explanation of the Japanese measure, to which it had not received a reply. Japan announced that the matter would be pursued bilaterally.

68. Mexico – Import prohibition of milled rice

Raised by:	Thailand
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, para. 44), March 1998 (G/SPS/R/10, paras. 69-70), June 1998 (G/SPS/R/11, para. 24), September 1998 (G/SPS/R/12, paras. 17-18), November 1998 (G/SPS/R/13, paras. 14-16), March 1999 (G/SPS/R/14, para. 15), July 1999 (G/SPS/R/15, para. 7), November 1999 (G/SPS/R/17, para. 86), March 2000 (G/SPS/R/18, para. 26), June 2000 (G/SPS/R/19, paras. 22-23), November 2000 (G/SPS/R/20, paras. 23-25)
Relevant document(s):	G/SPS/N/MEX/44, G/SPS/N/MEX/45, G/SPS/N/MEX/55, G/SPS/N/MEX/153, G/SPS/GEN/82, G/SPS/GEN/105, G/SPS/GEN/172, G/SPS/GEN/216
Solution (if reported):	New measure notified in March 2000, problems remaining.

145. In October 1997, Thailand reported that Mexico prohibited importation of Thai milled rice because of the fungus *tilletia barclayana* (Kernel smut), although Mexican experts visiting Thailand had concluded the fungus would be removed during milling, and although the fungus existed in Mexico. Mexico had informed Thailand that the prohibition would be replaced by a new regulation, but despite high-level consultations no progress had been achieved. Mexico assured the Committee that the matter would be followed up. In March 1998, Thailand indicated that it had received no replies to its written communication to Mexico. The Mexican delegate replied that he would convey the information to his authorities, who were studying the matter. Thailand expressed its disappointment at the lack of progress again in June 1998, and Mexico stated that the issue was still under consideration. In September 1998, Mexico reported on official contacts between the two countries. Mexico was conducting a risk assessment, but had not received the necessary information from Thailand.

146. In November 1998, Thailand reported that it had proposed holding consultations with the Chairman, but that Mexico had not agreed. He stressed that there was no data demonstrating the risk of transmission of the fungus *tilletia barclayana* from Thai milled rice. Mexico had requested information on a different pest for its risk assessment, but Thailand did not see the connection between the two issues, as this new pest was not listed in the regulation establishing the Mexican quarantine measures. Thailand was concerned that Mexico might request information on one pest after another. Mexico repeated that the requested information had not been provided. Both countries indicated consultations would continue.

147. In March 1999, Thailand indicated that although it had no obligation to do so, it was providing the information requested by Mexico. Mexico noted that its measures had been notified, and the text of the measures provided to Thailand. Mexico would review the latest information and act accordingly. In July 1999, Thailand reported that it had handed over additional documents to Mexico. Some progress had been made at bilateral consultations, where it had been clarified that *tilletia barclayana* was a quarantine disease only for seed imports, not with regard to rice imported for consumption. Mexico had also found no reports of the presence of the khapra beetle in Thailand, and would thus modify its regulation which had listed Thailand as a country affected by this pest.

148. In November 1999, Mexico informed the Committee that the phytosanitary regulations were being revised and would be published for comments. Mexico had provided Thailand with the text of the draft measures. Thailand indicated it was looking forward to the publication of the final measure and its notification to WTO. In March 2000, Thailand noted that Mexico had taken new measures replacing the ban, but these measures included unusual and unnecessary requirements such as

fumigation at point of entry. Mexico invited Thailand to send official comments on the new draft regulation.

149. In June 2000, Thailand reported that bilateral consultations had taken place. Thailand had posed a list of questions regarding the measure notified in G/SPS/N/MEX/153. Mexico explained that the questions and comments from Thailand were being reviewed by the competent Mexican authorities. The sub-committee considering the matter would meet in July 2000, and responses to each of the comments would be published in the Official Journal before the final standard was published.

150. In November 2000, Thailand reported that although every effort had been made to find resolution to this problem, the issue was still unresolved. Thailand had not been informed of the status of the matter since the meeting of the Mexican phytosanitary committee in July and August 2000, and was interested in the expected date of amendment of the relevant Mexican standard. Mexico had no further information.

69. Panama – Requirements for certification of consumer rice

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 15)
Relevant document(s):	Raised orally
Solution (if reported):	

151. The United States noted that Panama required imports of consumer rice to be certified free from the fungus *tilletia barclayana* (Kernel smut), although this fungus already existed in Panama. Furthermore, the fungus in question could not be transmitted through milled rice. Panamanian officials had allegedly suggested that current domestic supply conditions had influenced their decisions. The representative of Panama replied that she would forward a report from capital to the US Department of Agriculture.

70. Phytosanitary issues in general

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 12)
Relevant document(s):	Raised orally
Solution (if reported):	

152. The United States noted that the mere existence of a plant disease or pest in traded agricultural goods did not necessarily constitute a risk to the importing country if, for scientific reasons, the pest or disease could not establish itself in the area into which it was being imported. Likewise, if the disease or pest was already prevalent in the importing country, import controls were unlikely to serve any significant health objective. The United States urged Members to ensure compliance with the principle of national treatment as well as other key provisions.

71. Poland – Restrictions on wheat and oilseeds

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, paras. 13-14), November 1998 (G/SPS/R/13, para. 27)
Relevant document(s):	Raised orally
Solution (if reported):	

153. In March 1997, the United States questioned the phytosanitary health basis for Poland's restrictions which applied to weed seeds that existed world-wide, some of them known to be established in Poland. Poland replied that the measure did not affect trade with the United States, as no shipment of US grain or oilseeds had been rejected because of quarantine risks. In November 1998, the Chairman reported that he and the Secretariat had been requested to facilitate bilateral consultations between the United States and Poland regarding tolerance levels for weed seed, particularly of the genus *Ambrosia*. These consultations had focussed on technical aspects of pest risk analysis, and both parties had agreed to continue the discussions.

72. Slovak Republic – Restrictions on imports of apples, pears and quinces

Raised by:	Hungary
Supported by:	European Communities, Bulgaria
Dates raised:	March 1998 (G/SPS/R/10, paras. 20-21), June 1998 (G/SPS/R/11, paras. 27-30), September 1998 (G/SPS/R/12 and Corr.1, paras. 31-34)
Relevant document(s):	G/SPS/N/SVK/8 and Rev.1, G/SPS/N/SVK/11, G/SPS/GEN/79
Solution (if reported):	Measure improved, problems persisting.

154. In March 1998, Hungary indicated that although the Slovak Republic had made changes to its measure on importation of apples, pears and quinces as notified, the certification and information requirements were extremely burdensome. The measure appeared to be more restrictive than required to protect health, was not based on scientific principles and constituted a disguised restriction on trade. The Slovak Republic answered that the measure was intended for protection against the introduction of fire blight (*Erwinia amylovora*), which did not occur in Slovakia. The revised measure, which extended import possibilities, was consistent with the SPS Agreement, but the Slovak Republic remained open to bilateral discussions.

155. In June 1998, Hungary acknowledged improvements made by the Slovak Republic, but stressed that the measure was not consistent with recommendations by the European and Mediterranean Plant Protection Organization (EPPO). The licensing system, which applied to each consignment, remained too burdensome. The Slovak Republic replied that it imported 35 per cent of its apples, pears and quinces, which showed that there were no serious market access impediments. Given the potential economic costs of introduction of the disease, and since available scientific information was not sufficient, a precautionary approach was adopted in line with Article 5.7. The Slovak Republic was exchanging information with countries applying similar phytosanitary measures, and was ready to continue discussion with its trading partners. In September 1998, Hungary again acknowledged that the Slovak measure had been improved, although a partial ban still applied, for which no scientific justification had been given. The Slovak Republic reiterated its earlier arguments that it had put in place a temporary measure according to Article 5.7.

73. Slovak Republic – Import restrictions on potatoes

Raised by:	European Communities, Poland
Supported by:	Argentina, Chile, Hungary
Dates raised:	March 1998 (G/SPS/R/10, paras. 22-23), March 1999 (G/SPS/R/14, para. 21), July 1999 (G/SPS/R/15, para. 65), November 1999 (G/SPS/R/17, para. 84)
Relevant document(s):	G/SPS/N/SVK/9, G/SPS/N/SVK/15, G/SPS/GEN/65, G/SPS/GEN/115, G/SPS/GEN/159 and G/SPS/GEN/165
Solution (if reported):	Measure revised in March 1999, problems persisting.

156. In March 1998, the European Communities pointed out that notification of the Slovak measure on potatoes as an emergency measure did not appear to be justified, and that less trade-restrictive measures could attain the required level of protection. The Slovak Republic responded that problems seemed to stem from the registration procedure, rather than from the phytosanitary requirements *per se*. Slovak authorities were about to remove the current strict registration requirements and establish a maximum residue level.

157. In March 1999, Poland reported that following bilateral consultations, the Slovak Republic had lifted its earlier import ban on Polish ware potatoes, but that it had been replaced with testing requirements for potato spindle tuber viroid. Poland considered this requirement an unjustified obstacle to trade since no comment period had been provided and since the imported potatoes were treated to impede germination and were thus unlikely to introduce diseases to crop plants. The representative of the Slovak Republic indicated he would transmit the Polish comments to his authorities. In July 1999, both delegations reported that consultations regarding potatoes and fruit, including apples, pears and quinces had taken place, and had been expanded to include Slovak exports of cereals, maize and malt to Poland. In November 1999, Poland informed the Committee on the development of the issue. The Slovak Republic thought it was more appropriate to discuss this matter at the expert level. The Slovak Republic stressed that it wanted to avoid importation of potato bacterial diseases. Import measures had been notified (G/SPS/N/SVK/15), and were based on a pest risk analysis.

74. Switzerland - Notification on wheat, rye and triticale

Raised by:	Argentina
Supported by:	
Dates raised:	July 1997 (G/SPS/R/8, para. 32)
Relevant document(s):	G/SPS/N/CHE/5
Solution (if reported):	

158. Argentina expressed concern with regard to rising trade barriers on wheat grain for industrial and planting purposes. Argentina was free from *tilletia indica* (Karnal bunt). Argentina requested a full draft of the proposed Swiss measure notified as G/SPS/N/CHE/5, including access to the risk analysis and other scientific documents which substantiated the proposal. Switzerland assured Argentina that the scientific basis for the notified measure would be provided as soon as possible.

75. United States – Imports of citrus fruit

Raised by:	Argentina
Supported by:	
Dates raised:	November 1999 (G/SPS/R/17, para. 89), June 2000 (G/SPS/R/19, para. 10)
Relevant document(s):	Raised orally
Solution (if reported):	Favourable conclusion reported in June 2000.

159. In November 1999, Argentina expressed concerns regarding the postponement of US measures dealing with imports of citrus fruit from north-western Argentina. Negotiation of the measure had taken seven years and been finalized one year earlier. Argentina appealed to the United States to publish the measure before another harvest was lost for Argentine producers. The representative of the United States answered that the draft measures had passed the technical level and promised to draw the attention of his authorities to Argentina's concerns.

160. In June 2000, Argentina reported that after years of negotiations with the United States regarding citrus produced in north-west Argentina, a favourable conclusion had been reached.

76. United States – Import restrictions on rhododendrons in growing medium

Raised by:	European Communities
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, para. 66), November 1999 (G/SPS/R/17, para. 83), March 2000 (G/SPS/R/18, para. 68)
Relevant document(s):	G/SPS/N/USA/121
Solution (if reported):	Final rule published in December 1999, importation allowed under certain conditions.

161. In March 1999, the European Communities indicated that delays in the publication of a final rule on the importation of rhododendrons were resulting in de facto restrictions on EC exports. The representative of the European Communities asked for information on the status of the pest risk analysis and of the final rule. The United States replied that the final rule for the importation of rhododendrons in growing medium from the EC had been completed pending final review, and would be published within one month after the meeting. The European Communities requested an update on the status of the rule in November 1999, and the United States answered that it would be published in the near future. In March 2000, the United States informed the Committee that the final rule had been published on 30 December 1999, allowing the importation of rhododendrons under conditions designed to prevent the introduction of pests.

77. United States – Interim rule affecting solid wood packaging material

Raised by:	none; Hong Kong, China is affected
Supported by:	
Dates raised:	November 1998 (G/SPS/R/13, paras. 3-12), March 1999 (G/SPS/R/14, paras. 2-3)
Relevant document(s):	G/SPS/GEN/107, G/SPS/N/USA/137, G/SPS/N/CAN/44
Solution (if reported):	

162. In November 1998, the United States provided information on an amendment of the regulations applicable to unmanufactured wood, adding treatment and documentation requirements for imports from China, including Hong Kong, China. Hong Kong, China found the rule arbitrary and discriminatory. Although Hong Kong, China recognized that fumigation with methyl bromide was

effective, it was concerned that the use of this substance had undesirable side-effects on human health and the environment. Bilateral consultations with the United States had taken place. The United States encouraged Members to comment on its draft measure. Canada indicated that it had also imposed a measure on unmanufactured wood imports from China to avoid introduction of the Asian Longhorned Beetle. A technical expert would be sent to Hong Kong, China to study ways to implement this measure with a minimal disruption of international trade. In March 1999, the United States announced that an advance notice of proposed rule making had been published on 20 January 1999, and that comments were welcome until 22 March 1999. The European Communities indicated that it had been monitoring similar problems, and would provide more information at a later date.

78. United States - Actions taken by local governments

Raised by:	Chile
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev. 1, para. 47)
Relevant document(s):	Raised orally
Solution (if reported):	

163. Chile noted that legal actions taken by local governments could disrupt trade flows. For example, Californian judges had requested the US Department of Agriculture (USDA) to undertake an environmental analysis before allowing imports. In another instance, after Chilean phytosanitary authorities had taken a decision regarding the entry of weeds, they were threatened to be subject to legal proceedings initiated by the exporting country, unless the exporting country was declared a "low-risk" or a "zero-risk" country. Another related issue concerned the need for the streamlining or reform of national regulatory frameworks. As many as five signatures were sometimes required to clear the entry of goods into a territory.

IV. OTHER CONCERNS

79. Korea – Import clearance measures and practices

Raised by:	United States
Supported by:	Several delegations
Dates raised:	June 1995 (G/SPS/R/2, paras. 39-40), May 1996 (G/SPS/R/5, paras. 4-5), October 1996 (G/SPS/R/6, para. 54), March 1997 (G/SPS/R/7, para. 54), July 1997 (G/SPS/R/8, para. 77), October 1997 (G/SPS/R/9/Rev.1, paras. 42-43)
Relevant document(s):	G/SPS/W/64, G/SPS/W/66, G/SPS/GN/6
Solution (if reported):	Consultations under Dispute Settlement initiated (WT/DS3, WT/DS41), still pending.

164. In June 1995, the United States informed the Committee that it had held formal consultations with Korea regarding its inspection and testing methods. Korea indicated that although consultations had been productive, there was a high degree of ambiguity in the implementation of the Agreement. The parties had noted the lack of international standards in the area, and countries maintained very diverse practices. In May 1996, the United States expressed serious concern regarding Korea's import clearance measures and practices, which were not based on science, did not conform to international practice or standards, and were deliberately employed to discourage food and agricultural imports. The United States had submitted a formal request for consultations. Korea replied that these issues had been discussed extensively in a series of bilateral consultations with the United States and other countries. Korea had taken various measures to comply with the SPS Agreement, but encountered problems common to developing countries: a low level of sanitary infrastructure, lack of experience

and information, and lack of relevant international standards. However, Korea would continue to adapt its measures to the SPS Agreement.

165. In October 1996, the United States reported on ongoing discussions with Korea. The United States expected reforms to shorten the import clearance process in Korea without additional burdensome requirements, with a period for comments by WTO Members. Korea answered that an ambitious reform programme had been launched the previous year, including the establishment of an advanced inspection and quarantine system by the end of 1996. In March 1997, the United States noted that consultations continued. Although Korea had implemented some changes, concerns remained. Korea indicated that it would continue its efforts to conform its sanitary and phytosanitary legislation to the SPS Agreement.

166. In July 1997, the United States reported that after five rounds of consultations under the WTO dispute settlement procedure, some Korean import clearance laws and regulations had been reformed. However, since January new problems had arisen. The United States would continue to address these concerns in bilateral consultations until clearance times in Korean ports were similar to those in similar ports. Korea took note of the US comments. In October 1997, the United States noted that although some progress had been made, there seemed to be problems with the implementation of certain changes Korea had agreed to make. The representative of Korea indicated that in his view the new import clearance system was in full compliance with the SPS Agreement, however, the US concerns would be conveyed to the competent authorities in the capital.

80. Japan and Korea - Translation of regulations

Raised by:	Argentina
Supported by:	Thailand
Dates raised:	October 1996 (G/SPS/R/6, para. 26)
Relevant document(s):	G/SPS/N/JPN/1, G/SPS/N/KOR/29, G/SPS/N/KOR/20, G/SPS/N/KOR/31
Solution (if reported):	

167. Argentina regretted that the regulations notified by Japan and Korea were not available in one of the three WTO working languages. The Chairman recalled that Annex B, paragraph 8 of the SPS Agreement requires developed country Members to "provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish", if there is a specific request from another Member. Japan observed that it normally provided summaries of the documents in English. Thailand suggested that countries give sufficient detail in the description of content of their notifications to enable relevant comments by recipient Members.