WORLD TRADE ORGANIZATION

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(12-1182)

Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

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 since 1995.[2] The Secretariat has revised this document annually to include new information provided by Members (G/SPS/GEN/204/Rev.1 to 11). The specific trade concerns in the twelfth revision of G/SPS/GEN/204 maintain the previously assigned numbers according to the chronological order of the Committee meetings in which they were first raised. These numbers serve as unique identifiers and are intended to facilitate tracking of individual trade concerns over time. The new trade concerns raised in each Committee meeting are numbered in the order of the alphabetic list of Members maintaining the measures.

The twelfth revision of G/SPS/GEN/204 is divided into two sections:

A. STCs general overview; and
B. STCs discussed in 2011.

Section A of the document contains summary statistics and graphs for all the trade concerns raised in the SPS Committee between the first regular meeting of 1995 and the last regular meeting of 2011. The trade concerns are categorized as relating to food safety, animal or plant health. This section also includes a summary table which identifies for each specific trade concern according to the assigned number, the Member(s) maintaining the measure, the Member(s) raising the concern, as well as information on whether the issue has been reported to have been resolved.

Section B of the document contains information regarding all issues which were raised in the SPS Committee in 2011. This includes (1) issues raised for the first time in 2011; (2) issues which were previously raised and on which further discussions or activities occurred during 2011; and (3) issues for which there was no substantive discussion in the Committee during 2011, but where Members reported that a previously raised issue had been resolved, or where substantive action on the issue occurred in another WTO body during 2011 (e.g., establishment of a dispute resolution panel on the issue).

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

[2] G/SPS/R/18, para.20.

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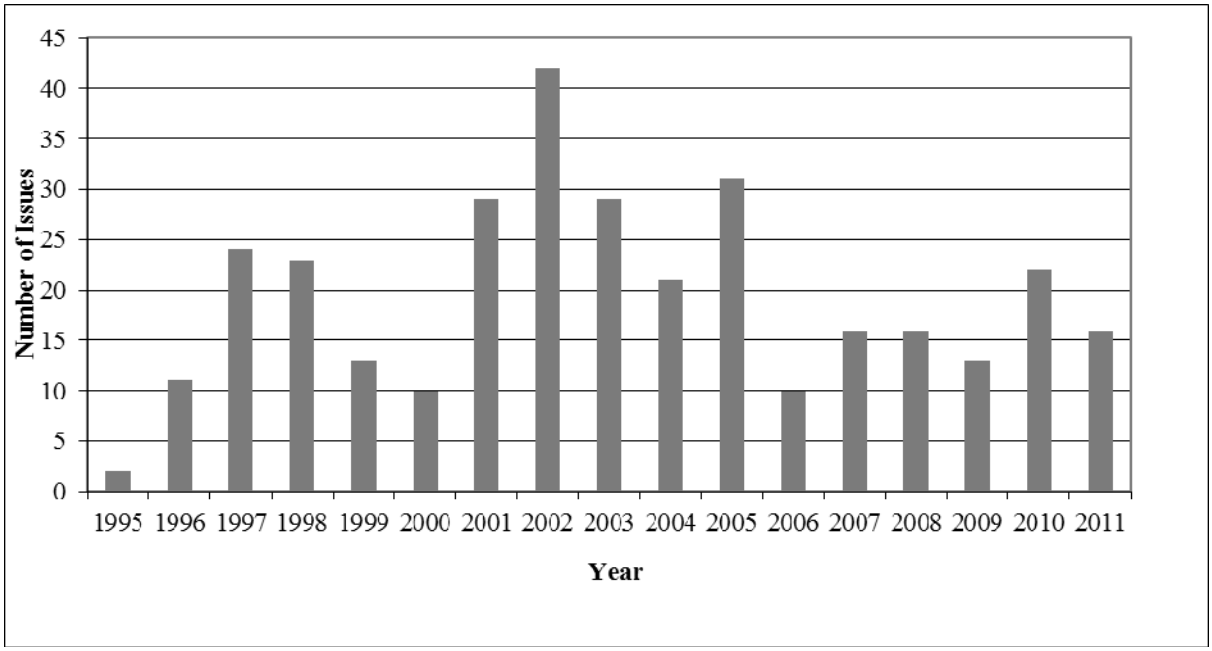
A. STC'S GENERAL OVERVIEW

1. Altogether, 328 specific trade concerns were raised in the seventeen years between 1995 and the end of 2011. Figure 1 shows the number of new concerns raised each year; 16 new concerns were raised in 2011.

FIGURE 1 – NUMBER OF NEW ISSUES RAISED



2. Figure 2a categorizes the trade concerns raised over the seventeen years into food safety, animal or plant health issues. Overall, 29 per cent of trade concerns relate to food safety concerns, 25 per cent relate to plant health, and 6 per cent concern other issues such as certification requirements or translation. Forty per cent of concerns raised relate to animal health and zoonoses. The animal health and zoonoses category is further divided into foot-and-mouth disease (FMD), transmissible spongiform encephalopathies (TSEs), Avian Influenza (AI) and other animal health concerns (OAH). Figure 2b shows that TSEs account for 35 per cent of animal health concerns, while issues related to foot-and-mouth disease account for 24 per cent. The remaining 41 per cent relate to other animal health concerns and avian influenza.

FIGURE 2A – TRADE CONCERNS BY SUBJECT

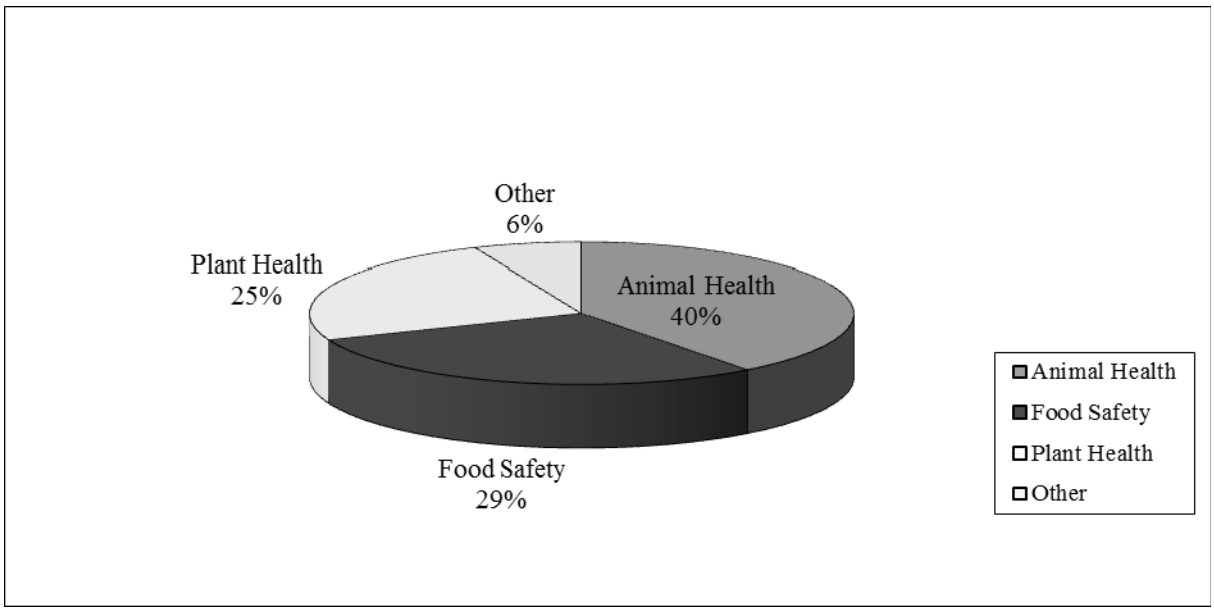
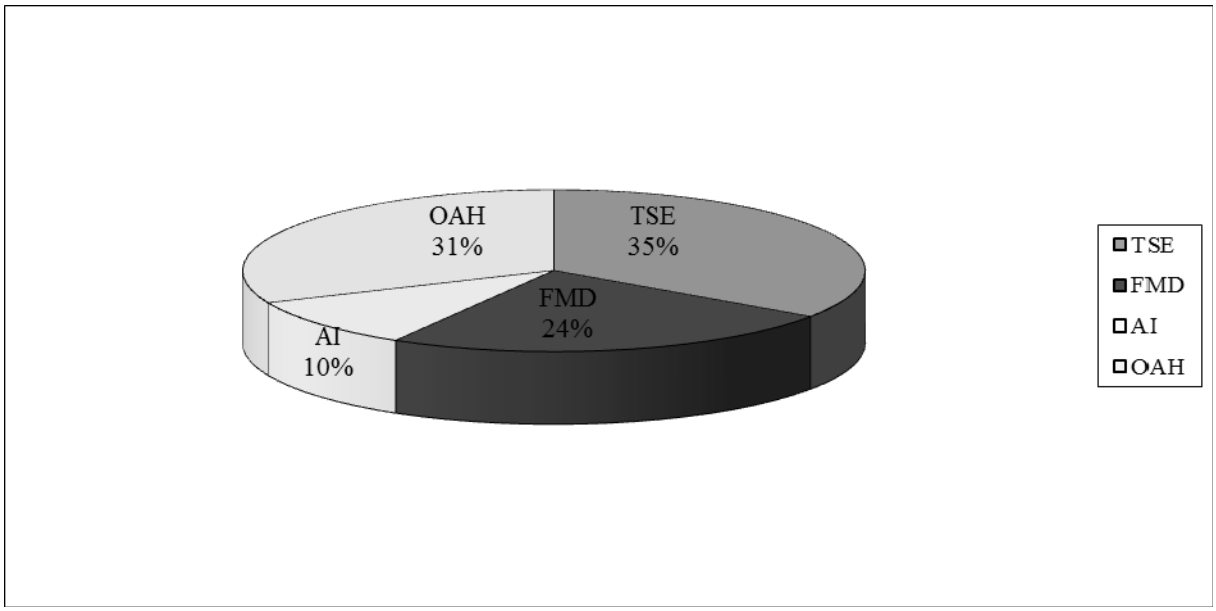


FIGURE 2B – TRADE CONCERNS RELATED TO ANIMAL HEALTH & ZOONOSES



3. Developing countries are participating actively under this agenda item in the SPS Committee meetings. Figure 3a indicates that over the seventeen years, developing country Members have raised 173 trade concerns (on many occasions more than one Member has raised, supported or maintained an issue) compared to 201 raised by developed country Members and three raised by least-developed country Members.[3] A developing country Member has supported another Member raising an issue in 209 cases, compared to 155 for developed country Members and one for least-developed country

[3] The European Communities was counted as one Member. Similarly, when one Member spoke on behalf of ASEAN, it was counted as one Member only.

Members. In 196 cases, the measure at issue was maintained by a developed country Member, and in 169 cases it was maintained by a developing country Member. One trade concern regarding measures maintained by least-developed country Members has been raised. Figure 3b shows the number of new issues raised each year by each category of Member.

FIGURE 3A – PARTICIPATION BY WTO MEMBERS (1995-2011)

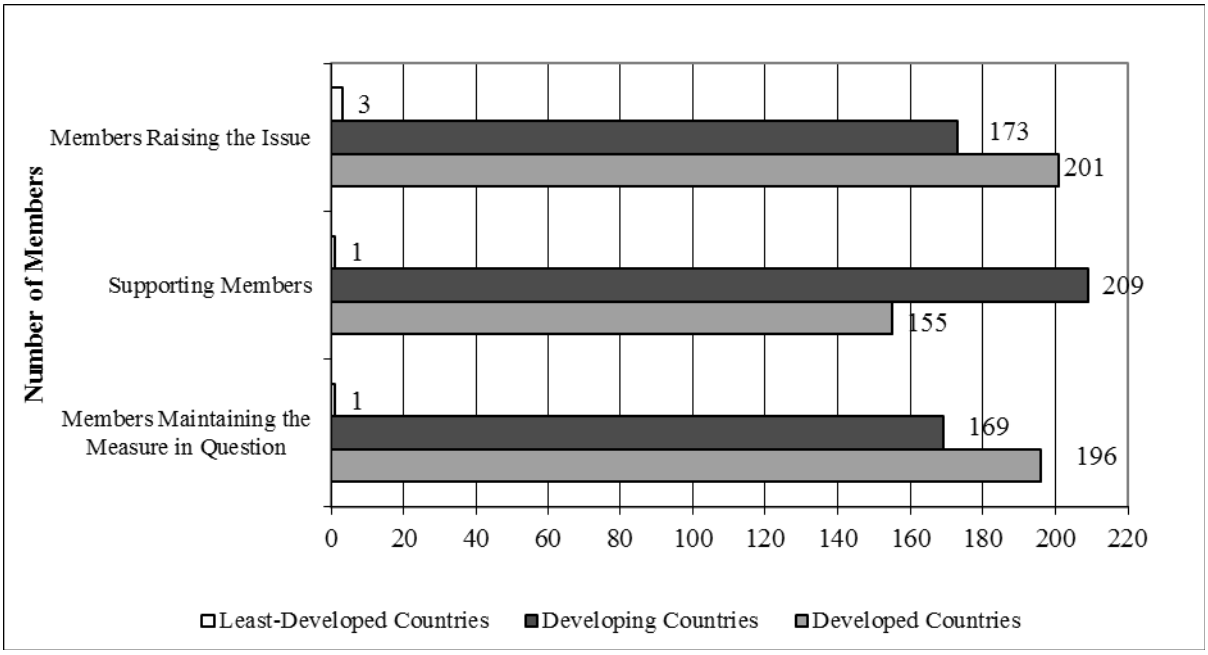
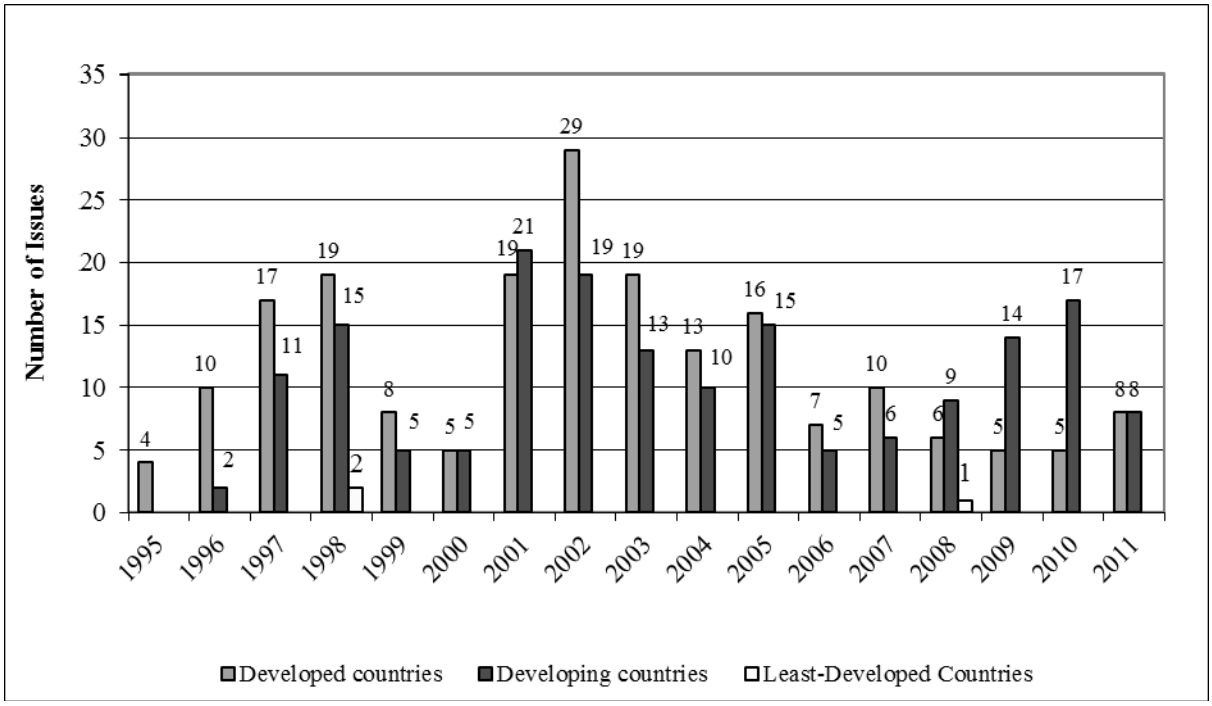
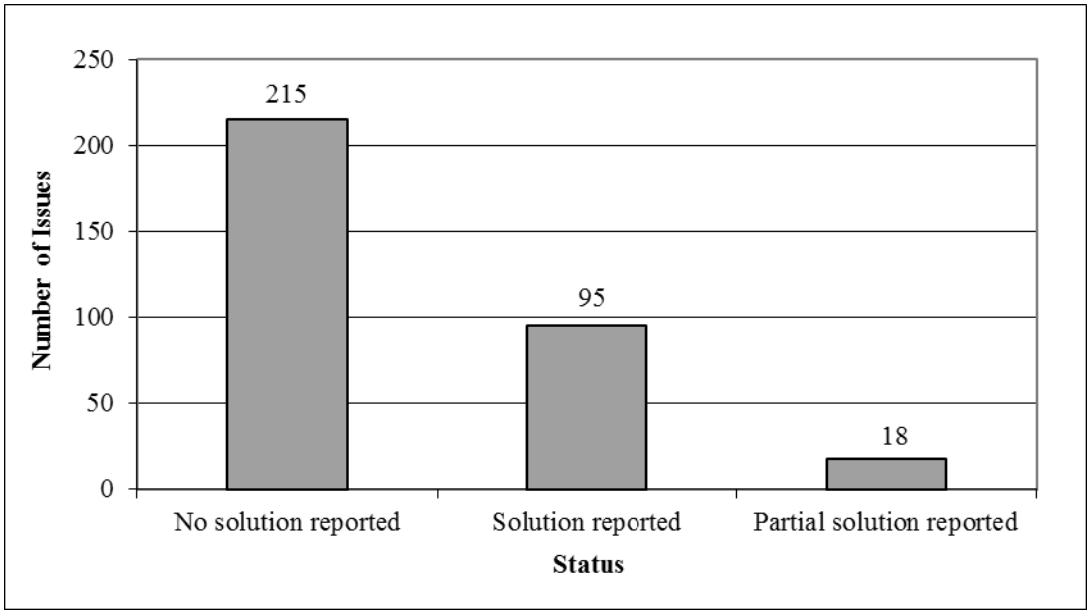


FIGURE 3B – NUMBER OF NEW ISSUES RAISED BY MEMBERS



4. Figure 4 indicates that 95 trade concerns have been reported resolved out of the 328 trade concerns raised over the seventeen years. No issue was reported as resolved in 2011. Eighteen trade concerns have been reported to be partially solved. In these instances, trade may have been allowed for selected products or by some of the importing Members maintaining the measure in question. No solutions have been reported for the remaining 215 trade concerns. Excluding the 16 new issues raised in 2011, there are 199 trade concerns that are at least one year old and for which no solution have been reported. However, some of these concerns may have been resolved without the Committee being made aware of these developments.

FIGURE 4 – SOLVED TRADE CONCERNS



LIST OF SPECIFIC TRADE CONCERNS (1995 – 2011)

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
1995				
1	Shelf-life requirements	Korea	Australia, Canada, United States	PR
2	Import clearance measures and practices	Korea	United States	R

[4] NR= Not Reported, P = Partially resolved, R= Resolved

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
1996				
3	Restrictions on gelatin imports	Norway	Brazil	R
4	Measures related to BSE	Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Czech Republic, France, Germany, Italy, Netherlands, Poland, Romania, Singapore, Slovak Republic, Slovenia, Spain, United States	Switzerland	R
5	Import requirements for wine	Brazil	European Union[5]	NR
6	Importation of cheese	Canada	European Union	R
7	Regionalization in relation to animal health	United States	European Union	NR
8	Ban on salmon imports	Australia	Canada, United States	R
9	Zero-tolerance for salmonella in imported poultry products	Chile, Czech Republic, El Salvador, Honduras, Slovak Republic	United States	NR
10	Imports of potatoes	Czech Republic	European Union	R
11	Restriction on levels of copper and cadmium in imported squid	Spain, European Union	United States	R
12	Testing requirements for different varieties of apples, cherries and nectarines	Japan	United States	R
13	Translation of regulations	Japan, Korea	Argentina	NR
1997				
14	Restrictions on imported wheat	Brazil	United States	R
15	Zoosanitary import policies pertaining to BSE	Canada	European Union	NR
16	Restrictions on imports of wheat and fruit	Chile	United States	R

[5] On 1 December 2009, the *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community* (done at Lisbon, 13 December 2007) entered into force. On 29 November 2009, the WTO received a Verbal Note (WT/L/779) from the Council of the European Union and the Commission of the European Communities stating that, by virtue of the *Treaty of Lisbon*, as of 1 December 2009, the European Union replaces and succeeds the European Community.

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
17	Cosmetics and BSE	European Union	Australia	NR
18	Certification requirements for pet food	France, European Union	United States	NR
19	Protected zones	European Union	Uruguay	NR
20	Restrictions on imports of rough rice	Honduras	United States	R
21	Fresh fruit and vegetables	Indonesia	Australia, United States	NR
22	Measures affecting imports of bovine meat	Israel	Uruguay	R
23	Plant quarantine regulations	Japan	United States	NR
24	Requirements for certification of consumer rice	Panama	United States	R
25	Restrictions on wheat and oilseeds.	Poland	United States	NR
26	Phytosanitary issues in general	Certain Members	United States	NR
27	Citrus canker	European Union	Argentina	R
28	Notification on wheat, rye and triticale	Switzerland	Argentina	R
29	Measures related to avian influenza	Bolivarian Republic of Venezuela	United States	NR
30	Regulation concerning warehouses and silos	Czech Republic	European Union	R
31	Rules on "specified risk materials" in products of animal origin	European Union	United States	NR
32	Gelatin imports	European Union	Brazil, United States	PR
33	Salmonella-related restriction on fishmeal imports	European Union	Chile, Peru	NR
34	Measures regarding FMD	Japan	Argentina, European Union	NR
35	Import ban on frozen poultry	Korea	Thailand	R
36	Import prohibition of milled rice	Mexico	Thailand	R
37	Actions taken by local governments	United States	Chile	NR
1998				
38	Temporary prohibition of fresh pork and products	Argentina	European Union	R
39	Maximum levels for certain contaminants (aflatoxins) in foodstuffs	European Union	Argentina, Australia, Plurinational State of Bolivia, Brazil, Gambia, India, Indonesia,	R

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
			Malaysia, Philippines, Senegal, Thailand	
40	Trade restrictions in response to cholera	European Union	Tanzania	PR
41	Restrictions on imports of apples, pears and quinces	Slovak Republic	Hungary	R
42	Import restrictions on potatoes	Slovak Republic	Poland, European Union	R
43	Prohibition on bone-in beef imports from EC member States	South Africa	European Union	NR
44	Measures related to BSE	United States	European Union	NR
45	Import restrictions on cheese	Australia, New Zealand	Switzerland, European Union	R
46	Import prohibition of coconut palms and related products	Brazil	Philippines	NR
47	Measure on establishments operating in the animal feed sector	European Union	United States	NR
48	Import ban on livestock	Turkey	Hungary, United States	PR
49	Restrictions on imports of sauces containing benzoic acid	Australia	Philippines	R
50	Quarantine requirements for chicken meat	Australia	Thailand	NR
51	Prohibition of poultry meat imports from Thailand	Czech Republic	Thailand	R
52	Measures on food treated with ionizing radiation	European Union	United States	NR
53	Emergency measures on citrus pulp	European Union	Brazil	R
54	Notifications regarding import requirements on meat and eggs	Switzerland	United States	R
55	TSE-related import restrictions of live cattle	Israel	European Union	NR
56	Notification on amendment of the Japanese Plant Protection Law	Japan	United States	NR
57	Requirements for imports of milk and milk products	Poland	European Union	R
58	Notification on refrigeration and labelling requirements for shell eggs	United States	European Union	NR
59	Interim rule affecting solid wood packaging material	United States	Hong Kong, China	NR
1999				
60	Import restrictions on bovine semen and embryos, milk and milk products	Argentina	European Union	R

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
61	Import restrictions on bovine semen	India	Canada, European Union	PR
62	Restrictions on imports of horses	India	European Union	NR
63	Information on dioxin	Certain Members	European Union	R
64	Ban on antibiotics in feed	European Union	United States	NR
65	Import restrictions on beef	Korea	Argentina	NR
66	Notifications related to dioxin	Malaysia, Singapore	Switzerland	R
67	Import restrictions on beef	Mexico	Argentina	NR
68	Notifications on veterinary measures and measures on animal products including gelatin	Poland	Switzerland, United States	R
69	Import restrictions on rhododendrons in growing medium	United States	European Union	R
70	Import conditions for pork meat and products	Bolivarian Republic of Venezuela	European Union	NR
71	Restrictions on meat and dairy products	El Salvador	Uruguay	R
72	Measures regarding canned tuna in oil	Belgium, European Union	Philippines	NR
73	Imports of citrus fruit	United States	Argentina	R
2000				
74	Restrictions on imports of tropical fresh fruit	Australia	Philippines	NR
75	Notification on meat and meat products	Iceland	Argentina	R
76	Ban on pet food imports	Turkey	Hungary	R
77	Restrictions on canned tuna	Egypt	Thailand	NR
78	Notification on methyl bromide	Australia	European Union	R
79	Import restrictions on durian	Australia	Thailand	NR
80	Restrictions on poultry meat imports	Plurinational State of Bolivia	Chile	R
81	Wood packing material	European Union	Canada	R
82	Restrictions on importation of fresh fruit	Indonesia	New Zealand	R
83	Restrictions on milk powder imports	Panama	European Union	R
2001				
84	Import restrictions affecting BSE-free countries	Argentina, Australia, Canada, Korea,	Bulgaria, Croatia, Czech Republic, Estonia, Latvia,	NR

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
		New Zealand, United States	Poland, Romania, Slovak Republic, Slovenia	
85	Import restrictions on prawns and prawn products; revised generic IRA for prawns and prawn products	Australia	China, Thailand	NR
86	Access of California table grapes	Australia	United States	R
87	Measures affecting imports of products containing Brazilian beef	Canada	Brazil	R
88	Import restrictions due to FMD	Canada, United States	Hungary	NR
89	Import restrictions on soy sauce	European Union	Thailand	NR
90	Restrictions on bovine products	Hungary	Canada	R
91	Restrictions on pork products	Hungary	Canada	R
92	Restrictions on banana imports	Turkey	Ecuador	R
93	Phytosanitary requirements for potatoes, garlic and onions	Bolivarian Republic of Venezuela	Argentina	NR
94	Directive 2000/42 on pesticide residues	European Union	Côte d'Ivoire	NR
95	Legislation on the fungicide thiabendazole (TBZ)	European Union	Israel	NR
96	Geographical BSE risk assessment	European Union	Canada, Chile, India	R
97	Restrictions on the use of fishmeal	European Union	Chile, Norway, Peru	NR
98	Restrictions on Egyptian potatoes	European Union	Egypt	NR
99	Restrictions on importation of sugar cane top from Indonesia	Japan	Indonesia	NR
100	Import measures on apples due to fire blight	Japan	United States	R
101	Proposed import prohibition of commodity-country combinations of fresh cut flowers and foliage	New Zealand	European Union	R
102	Import restrictions on potted plants from the European Communities	United States	European Union	NR
103	FMD-related import restrictions	Certain Members	Argentina, European Union	PR
104	FMD restrictions	Chile	Argentina	R
105	Restrictions on apples and pears	Cuba	Argentina	NR
106	Regulations on genetically modified food and feed	European Union	United States	PR
107	Transitional TSE measures	European Union	Canada	R

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
108	Cut flowers	European Union	Ecuador, Israel	NR
109	Phytosanitary regulations (Canary Islands)	Spain, European Union	Argentina	NR
110	Agricultural biotechnology approval process	European Union	United States	PR
111	FMD restrictions	Indonesia	Argentina	NR
2002				
112	FMD trade restrictions	Plurinational State of Bolivia	Argentina	R
113	Pet food import requirements	Chile	Argentina	R
114	Food safety regulations affecting agricultural products produced from modern biotechnology	China	United States	NR
115	Import restrictions for citrus and other fruits related to fruit fly	China	Argentina	R
116	FMD restrictions	Colombia	Argentina	R
117	Traceability and labelling of genetically modified organisms and food and feed	European Union	Argentina, Canada, United States	NR
118	Import licenses for agricultural products	Panama	Canada	R
119	Notification on Chinese fruit imports	Philippines	China	PR
120	Restrictions on pigmeat	United States	European Union	NR
121	Imports of clementines	United States	European Union	R
122	FMD restrictions	Bolivarian Republic of Venezuela	Argentina	R
123	Restrictions on imports of potatoes, onions, fertilised eggs, day-old chicks and meat products	Bolivarian Republic of Venezuela	Canada, Colombia	NR
124	Notifications related to avian influenza	Certain Members	United States	NR
125	BSE related measures	Argentina	Canada	R
126	Import requirements for seed potatoes	Brazil	Canada, European Union	R
127	Import ban on products of Dutch origin	China	European Union	R
128	Import requirements for cosmetics	China	European Union	NR
129	Import restrictions on spiced pork and salted meat products	Cuba	Argentina	R
130	Restrictions on shellfish	European Union	Indonesia	NR
131	Pesticide and antibiotic limits in honey (Directive 96/23)	European Union	Cuba	NR

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
132	Import restrictions on dairy products	Indonesia	Argentina	R
133	Official control restrictions on citrus and other fresh fruits and vegetables	Japan	New Zealand, United States	NR
134	SPS measures on animal products	Romania	Moldova	NR
135	Restrictions on beef and pork	South Africa	Brazil	PR
136	Policies regarding quarantine and non-quarantine pests	Chinese Taipei	United States	NR
137	Import restrictions on meat and meat products	United States	Switzerland	NR
138	Pest risk assessment requirements	Argentina	United States	NR
139	Restriction on pigmeat	Australia	European Union	R
140	Imports of live ostriches	Brazil	European Union	R
141	Pest risk assessments for imports of plant origin	Brazil	Canada	NR
142	Zero tolerance for e-coli	China	United States	NR
143	Regulation on wood packaging material	China	European Union	R
144	Restrictions on the importation of fruits and fruit juices	European Union	Brazil	NR
145	Import restrictions on chicken meat imports	Honduras	Costa Rica	NR
146	Ban on hormones in animal production	Indonesia	United States	NR
147	Regulation on food additives	Japan	European Union	NR
148	Amendment of the food sanitation law	Japan	China	NR
149	Restrictions on food products	Panama	European Union	R
150	Certification of meat and dairy products	Philippines	Canada	R
151	Restrictions on imports of pork sausages and other pork products	Trinidad and Tobago	Argentina	NR
152	Restrictions on melons	United States	Mexico	NR
153	Restrictions on imports of Chinese potted plants in growing medium	United States	China	NR
154	Risk assessment on BSE	Uruguay	Canada, United States	PR
2003				
155	Import requirements for Netherlands Truss Tomatoes	Australia	European Union	R
156	Notification G/SPS/N/BRA/74 and 75 on BSE-related measures	Brazil	Canada	R

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
157	Quarantine measures for the entry and exit of aquatic products	China	European Union	R
158	Restrictions on pork imports	Croatia	Slovenia	NR
159	Proposal on animal by-products	European Union	United States	NR
160	Transitional BSE measures	European Union	United States	NR
161	EC Directive 2001/661/EC on foot and mouth disease	European Union	South Africa	NR
162	Fumigation standards	Japan	United States	NR
163	Restrictions on Austrian products	Mexico	European Union	NR
164	Restrictions on the importation of dry beans	Mexico	United States	R
165	Import restrictions on Spanish olive oil	Bahrain, Kingdom of, Kuwait, Oman, Qatar, United Arab Emirates	European Union	PR
166	Import measures on live animals and meat products	Croatia	Hungary	NR
167	Restrictions on honey imports	European Union	United States	R
168	Maximum levels for aflatoxins in corn and sampling contaminants in food	European Union	Argentina	NR
169	EC proposed regulation on maximum residue levels of pesticides	European Union	Argentina, China	NR
170	Live animals and animal products	European Union	Australia	NR
171	Animal health conditions and certification requirements for live fish	European Union	Australia	NR
172	Restrictions on imports of mangoes	Japan	Brazil	R
173	Notification on uses of living modified organisms	Japan	Australia	NR
174	Notification on transboundary movement of living modified organisms	Korea	Australia	NR
175	Notification on food and feed controls	European Union	United States	NR
176	Notification on maximum tolerance levels for Ocratoxin A in coffee	Germany, European Union	Colombia, Papua New Guinea	NR
177	Sanitary conditions for the importation of live material for apiculture	European Union	Argentina	NR

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
178	Revision of standards and specifications for food and additives	Japan	China	NR
179	Guidelines for maximum residue level (MRL) testing	Korea	United States	NR
180	Heat treatment for meat and bone meal in poultry for pet food	Chinese Taipei	United States	R
181	Import restrictions on potatoes	Chinese Taipei	New Zealand	R
182	Implementation of ISPM 15	United States	Argentina	R
183	Implementation of ISPM 15	Certain Members	Chile, Uruguay	NR
2004				
184	Lack of transparency for certain SPS measures	China	United States	NR
185	Restrictions due to avian influenza	India	European Union	NR
186	Phytosanitary import restrictions	India	United States, European Union	PR
187	FMD restrictions	Panama	Argentina	NR
188	Delisting of France from countries authorized to export certain meat and meat products to the United States	United States	European Union	R
189	Prohibition on the use of specified risk materials and requirements for disabled cattle	United States	Argentina	NR
190	Regionalization and recognition of animal disease free status	Certain Members	European Union	PR
191	Maximum residue levels for pesticides on food	European Union	China	NR
192	Non-notification of various SPS measures	India	United States	NR
193	General import restrictions due to BSE	Certain Members	European Union	PR
194	Restrictions on fresh grapes	Australia	Chile	R
195	Restrictions on citrus	Barbados	Bolivarian Republic of Venezuela	NR
196	Measures on US poultry	China	United States	R
197	Regulation on Ocratoxin A in coffee	European Union	Colombia	NR
198	Regulation on aflatoxins and Ocratoxin A in foods for infants and young children	European Union	China	NR

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
199	Deviation from international standard for wood packing material	Spain, European Union	United States	NR
200	Ban on food grade wax	India	United States	NR
201	Standards and specifications for food additives (Boscalid)	Japan	China	NR
202	Septoria controls on horticultural products	Korea	United States	R
203	Rule on materials derived from cattle and record-keeping requirements	United States	Argentina, China	NR
204	Notification by Members of implementation of ISPM 15	Certain Members	European Union	R
2005				
205	Slaughter of imported breeding cattle	Plurinational State of Bolivia	Mexico	NR
206	Inspection and testing procedures for imported wheat	Greece, European Union	Canada	NR
207	Directives on residual pesticide tolerance and inspection methods for tea	European Union	China	NR
208	Food and feed hygiene rules	European Union	Canada	NR
209	Plant health directive	European Union	United States	NR
210	Restrictions on imports of chicken meat	Guatemala	Mexico	NR
211	Restrictions on the transit of avocados	Guatemala	Mexico	NR
212	Positive list system for pesticides, veterinary drugs and feed additives MRLs	Japan	China, United States	NR
213	Restrictions on beef imports	Japan	United States	NR
214	Inspection regime for food processing establishments	Panama	United States	R
215	Public Health Regulation 11	Thailand	United States	NR
216	Restrictions on Ya pears imports	United States	China	NR
217	Import restrictions on apples	Australia	New Zealand	NR
218	Lack of recognition of regionalization and disease-free status for classical swine fever	Brazil	European Union	NR
219	EurepGAP requirements for bananas	European Union	Saint Vincent and the Grenadines	NR
220	Proposed regulations for piper methysticum (kava-kava)	United Kingdom, European Union	Fiji	NR

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
221	Safety insurance and quality improvement standards for feed and feed additives	Japan	China	NR
222	Import suspension of heat-processed straw and forage for feed	Japan	China	R
223	Import requirements for Indian mangoes	Japan	India	NR
224	Restrictions on EC exports of plant and animal products	Japan	European Union	NR
225	Restrictions on US poultry	Mexico	United States	NR
226	Inspection regime for agricultural products	Panama	Costa Rica	R
227	BSE-related import restrictions on non-ruminant products	Chinese Taipei	United States	NR
228	Import procedures for fruits and vegetables	United States	European Union	NR
229	Import restrictions on Enoki mushrooms from Chinese Taipei	Canada	Chinese Taipei	R
230	Phytosanitary requirements on fresh oranges	Costa Rica	Nicaragua	NR
231	Restrictions on cinnamon	European Union	Sri Lanka	R
232	Import restrictions on EC beef due to BSE	Israel	European Union	NR
233	Phytosanitary import legislation	Israel	European Union	R
234	Suspension of importation of live poultry and poultry carcasses	Thailand	Mexico	NR
235	Import restrictions on EC exports of live birds, meat, meat products and other derivates due to avian influenza	Certain Members	European Union	PR
2006				
236	Restrictions on beef exports under the Hilton Quota	Argentina	European Union	R
237	Lack of regionalization for Newcastle disease and restrictions on live birds	Brazil	European Union	NR
238	Application and modification of the EU Regulation on novel foods	European Union	Colombia, Ecuador, Peru	NR
239	Tolerance levels for soil content on potato tubers	Dominican Republic	Canada	NR
240	Biotech labelling and import approval process regulations	India	United States	NR
241	Import restrictions on wooden Christmas trees	United States	China	NR
242	Restrictions on US poultry exports	European Union	United States	NR

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
243	Lack of recognition of pest-free areas	Indonesia	United States	PR
244	Importation of live animals and meat products	Indonesia	Brazil	NR
245	Restrictions on US pork and poultry imports	Romania	United States	NR
2007				
246	Import restrictions on products of animal origin due to dioxin	China	European Union	R
247	BSE-related measures on beef products	Korea	Canada	NR
248	Regionalization for bovine and pig meat products	Korea	Brazil	NR
249	Reform of Australia's IRA process	Australia	European Union	NR
250	Trade restrictions related to national systems for determining maximum residue levels (MRLs) for pesticides	Certain Members	Argentina	NR
251	Zero tolerance for pathogens on raw meat and poultry products	China	United States	NR
252	Zero tolerance for salmonella in poultry and eggs	El Salvador	United States	NR
253	Export certification requirements for dairy products	India	United States	NR
254	Animal health requirements for poultry meat	El Salvador	United States	NR
255	Application of regionalization and prohibition of bovine meat	China	Brazil	NR
256	Import restrictions on cooked poultry products from China	European Union	China	PR
257	Import restrictions on cooked poultry products from China	United States	China	R
258	Import restrictions on beef and beef products due to Blue Tongue disease	Certain Members	European Union	NR
259	Avian influenza restrictions	China	United States	NR
260	Requirements for quarantine treatment of aircraft	Chile	Argentina	R
261	Varietal restrictions on US apples	China	United States	NR
2008				
262	Restrictions on heat-treated products in relation to avian influenza	Egypt	European Union	NR
263	Import restrictions on cooked and frozen meat	Mexico	Brazil	NR

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
264	Maximum residue levels for Ethephon in pineapple	European Union	Ecuador	NR
265	Regulatory process economic analysis requirement	United States	Brazil	NR
266	Price list for inspections	Malaysia	Brazil	NR
267	Pesticide maximum residue level (MRL) enforcement system	Japan	United States	NR
268	Import restrictions on EC dairy products	United States	European Union	NR
269	Restrictions on apples	United States	China	NR
270	Import restrictions on rice	Mexico	Pakistan	R
271	Restrictions on imports of swine meat	Mexico	Brazil	NR
272	Rapid Alert System regarding mango imports	European Union	Senegal	NR
273	Health certificate ratification by national embassies	Oman, Certain Members	European Union	NR
274	Korea's Livestock Epidemic Prevention Act	Korea	Canada	NR
275	Restrictions on ractopamine in beef and pork	Chinese Taipei	United States	NR
276	Maximum residue levels for pesticides in cacao	European Union	Ecuador	NR
277	NAPPO draft standard for ships and cargoes from areas infested with Asian gypsy moth	Canada, Mexico, United States	China	NR
2009				
278	Hygienic standard for distilled spirits and integrated alcoholic beverages (G/SPS/N/CHN/111)	China	Mexico	NR
279	Import restrictions on pork products due to influenza A/H1N1	Bahrain, Kingdom of, Armenia, China, Gabon, Indonesia, Jordan, Suriname	Mexico	NR
280	New meat import conditions	Indonesia	European Union	NR
281	Import restrictions on gelatine from bovine hides and head skin due to BSE requirements	Colombia	Brazil	NR
282	Measures on food products containing meat, poultry or processed egg products	United States	China	NR
283	Pesticide maximum residue levels (MRLs)	Japan	Brazil	NR
284	Rule on importation of wooden handicrafts from China	United States	China	NR

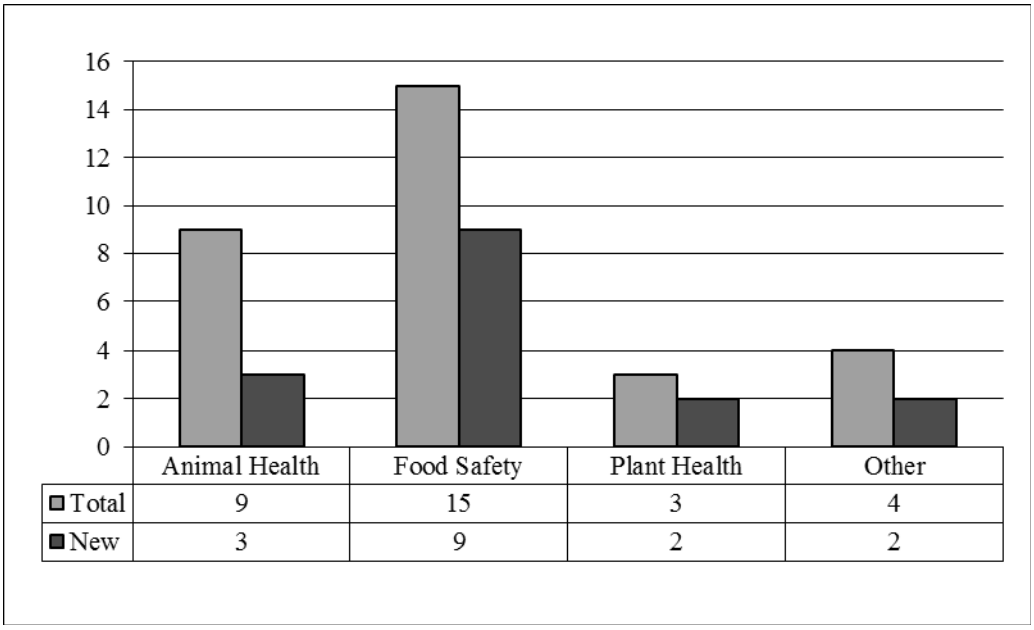
Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
285	Import restrictions on fresh pork meat and beef	United States	Brazil	NR
286	Import restrictions on poultry meat	Indonesia	Brazil	NR
287	Import restrictions on fresh pork meat and beef	South Africa	Brazil	NR
288	Import measures on animals and animal products	Ukraine	European Union	R
289	Measures on catfish	United States	China	NR
290	Suspension of inspection and delivery of plant and animal health certificates for imports	Bolivarian Republic of Venezuela	Colombia	NR
2010				
291	BSE Measures	Chinese Taipei	Canada	NR
292	Prohibition of ornamental plants larger than 18 inches	United States	Costa Rica	NR
293	Risks arising from Carambola fruit fly in French Guyana	France	Brazil	NR
294	Import restrictions on plant and plant products	Malaysia	Brazil	NR
295	Artificial colour warning labels	European Union	United States	NR
296	SPS notification practices	China	European Union	NR
297	Registration requirement for pet food export enterprises in China	Canada	China	NR
298	Import restrictions on Brazilian beef	Colombia	Brazil	NR
299	US 2009 Food Safety Enhancement Act	United States	China, India	NR
300	EC Regulation No. 1099/2009	European Union	India	NR
301	US risk analysis for the entry of queen bees	United States	Argentina	NR
302	Restrictions on products derived from biotechnology	Turkey	United States	NR
303	Import restrictions on poultry meat	Senegal	Brazil	NR
304	Proposed MRL for 1-Methylcyclopropene in bananas	Canada	Ecuador	NR
305	Import restrictions on beef and recognition of the principle of regionalization	Indonesia	Brazil	NR
306	Maximum residue levels of pesticides	European Union	India	NR
307	Prohibition of certain food additives	Japan	India	NR
308	Restrictions on bovines and bubalines for reproduction	Brazil	Colombia	NR

Specific trade concern number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
309	Labelling of products of animal origin (G/SPS/N/BRA/654)	Brazil	European Union	NR
310	Measures on canned sardines (G/SPS/N/BRA/666)	Brazil	Morocco	NR
311	Restrictions on poultry and poultry products	Albania, Croatia	Chile	NR
312	Restrictions on beef exports due to BSE-related concerns	Mexico	Nicaragua	NR
2011				
313	Import restrictions due to dioxin contamination in Germany	Certain Members	European Union	NR
314	Viet Nam's ban on offals	Viet Nam	United States	NR
315	Ukraine import restrictions on poultry and poultry products	Ukraine	Mexico	NR
316	United States import restrictions on chrysanthemums	United States	Costa Rica	NR
317	Mexico's BSE measures	Mexico	Canada	NR
318	US failure to recognize South Patagonia as FMD-free and to import beef from North of the 42nd Parallel	United States	Argentina	NR
319	Chinese quarantine and testing procedures for salmon	China	Norway	NR
320	Restrictions on imported fresh meat	Philippines	United States	NR
321	Japan's MRLs applied to sesame	Japan	Paraguay	NR
322	EU Regulation on polyamide and melamine plastic kitchenware	European Union	China, Hong Kong, China	NR
323	Malaysia's import restrictions on pork and pork products	Malaysia	European Union	NR
324	China's requirement for registration and supervision of foreign enterprises	China	India	NR
325	EU regulations on cadmium in cocoa beans	European Union	Ecuador	NR
326	Thailand's restrictions on table grapes, apples and pears	Thailand	South Africa	NR
327	EU Court of Justice ruling regarding pollen derived from GMOs	European Union	Argentina	NR
328	US default MRLs limits of determination or limits of quantification on basmati rice	United States	India	NR

B. STC'S CONSIDERED IN 2011

5. A total of 31 specific trade concerns were brought to the attention of the Committee during 2011, of which 16 were new issues. Figure 5 shows all trade concerns raised or for which a resolution or other action was reported in 2011, by subject. Overall, fifteen issues (48 per cent) relate to food safety, three issues (10 per cent) relate to plant health and four issues (13 per cent) relate to other concerns. The remaining 9 issues (29 per cent) relate to animal health and zoonoses; this category includes issues such as transmissible spongiform encephalopathy (TSEs) that are also relevant for food safety. TSEs account for 34 per cent of animal health concerns raised in 2011, while issues related to foot and mouth disease account for 33 per cent, avian influenza for 11 per cent, and the remaining 22 per cent concern other animal health issues.

FIGURE 5 - TRADE CONCERNS BY SUBJECT – 2011



	Animal Health	Food Safety	Plant Health	Other
Total	9	15	3	4
New	3	9	2	2

FIGURE 6 - TRADE CONCERNS RELATED TO ANIMAL HEALTH & ZOONOSES – 2011

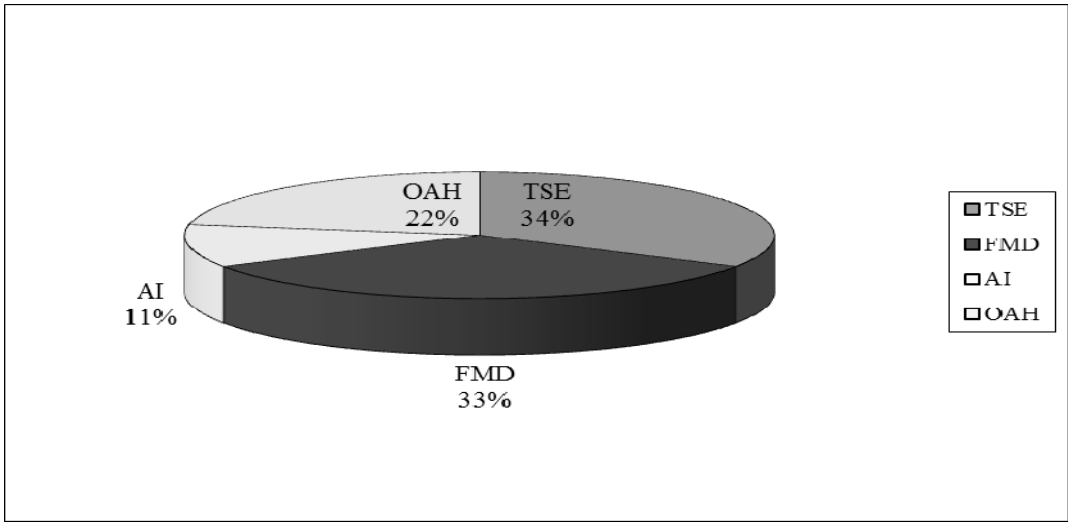
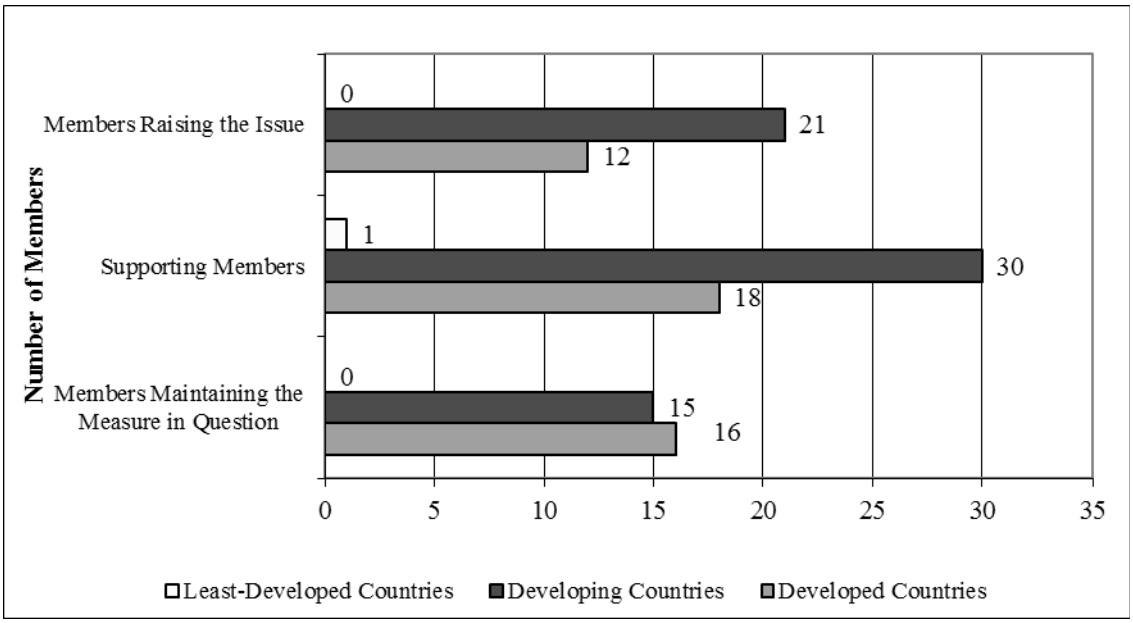


FIGURE 7 - PARTICIPATION OF MEMBERS – 2011



6. Of the 31 trade concerns discussed in 2011, in 12 cases a developed country Member has raised the issue, compared to 21 cases for developing country Members. On some occasions, developing and developed country Members have raised or supported the same issue. No cases were raised by a least-developed country Member in 2011. Developed country Members have supported another Member raising the issue in 18 cases and developing country Members have supported another Member in 3 cases. One case was supported by a least-developed country Member in 2011.

7. In 15 cases, the measure at issue was maintained by a developing country Member, and in 16 cases it was maintained by a developed country Member. Some specific trade concerns are with regard to measures maintained by more than one Member, including combinations of developed and developing countries. No trade concerns regarding measures maintained by a least-developed country Member were raised.

CHINA - CONCERNS RELATED TO MEASURES MAINTAINED BY CHINA

Food safety

319. Chinese quarantine and testing procedures for salmon

Raised by:	Norway
Supported by:	United States, European Union
Dates raised:	June 2011 (G/SPS/R/63, para. 19)
Relevant document(s):	Raised orally. G/SPS/GEN/1090
Solution:	
Status:	Not reported
Date reported as resolved:	

8. In June 2011, Norway stated that after years of steady increase in its exports of fresh salmon to China, exports had dropped significantly due to testing and quarantine procedures implemented by China on 13 December 2010. These were followed by strengthened inspection and quarantine procedures as stated in Notice No. 9 2011, which had not been notified to the WTO. The Norwegian monitoring programmes, in operation since 1998, showed no presence of illegal substances in the fish products and had consistently documented low levels of contaminants. China's measures did not seem to be based on scientific principles or a risk assessment, and Norway requested an explanation for these measures and how they complied with the SPS Agreement.

9. The United States supported Norway and expressed their concern that China had implemented AQS1Q Order No. 9, Notice on Strengthening Inspection and Quarantine on Imported Salmon, in February 2011, without having notified the measure. The stated objective of this notice was to safeguard consumer health, however no risk assessment had been provided. The United States requested a copy of China's risk assessment, and requested that China rescind AQS1Q Order No. 9's documentation requirements until the measure had been notified. China was also asked to explain how the requirement for the exporter's vessel name and number related to ensuring that wild salmon was safe for human consumption.

10. The European Union also called for transparency in all SPS matters.

11. China clarified that since 2010, the entry and exit inspection and quarantine bureaus in China had detected fish lice, pathogenic micro-organisms and excess veterinary drug residues in imported chilled salmon. In an attempt to protect their consumers, China had published a notice to strengthen the inspection and quarantine of imported salmon, based on the Administrative Measure for Inspection, Quarantine and Supervision on Import and Export of Feed and Feed Additives and its revision and amendment measures of imports and exports of aquatic products, which were notified to the WTO. The measures taken were covered by these laws and regulations without any new element and therefore it was unnecessary to make another notification. China had already responded to Norway's concerns when it raised them in March 2011, during Norway's visit to China's AQSIQ and hoped that those replies addressed its concerns. China was open to further bilateral discussions with the European Union and the United States on this topic.

12. Norway stressed that ensuring sea-food safety is a major objective of Norwegian authorities, who monitor the presence of undesirable substances, microorganisms and parasites in wild-caught and farmed seafood, as well as fish feed. Norway had been performing a risk assessment on seafood, based on studies of the most commercially important fish species in Norway. Stakeholders often held

conflicting views on food safety and on the benefits of seafood and it was important to distinguish between fact and fiction. Norway was keen to further collaborate in this area with China.

13. China observed that Norway's concerns focused on the detailed testing methods, however these purely technical matters had to be discussed among scientists. In March, scientists from both countries had held detailed discussions on this issue, and almost all of Norway's concerns had been clarified. China was disappointed with the lack of Norwegian efforts to resolve this issue, as when any cargo was identified to be carrying disease the problem was supposed to be rectified by the exporter. China welcomed Norway's and other interested parties participation in bilateral discussions as this issue had been on-going for two years.

324. China's requirement for registration and supervision of foreign enterprises

Raised by:	India
Supported by:	European Union
Dates raised:	October 2011 (G/SPS/R/64, paras 36-38)
Relevant document(s):	Raised orally. G/SPS/N/CHN/472)
Solution:	
Status:	Not reported
Date reported as resolved:	

14. In October 2011, India raised concerns over China's notification on "Provisions on the Administration of the Registration of Foreign Manufacturers of Imported Foods" (G/SPS/N/CHN/472) of 19 August 2011. Foreign manufacturers of foods listed in a "Catalogue of Registration of Foreign Manufacturers of Imported Foods" would not be able to export their products to China without registration. India enquired when this catalogue would be issued and requested further information on possible registration fees and processing times.

15. The European Union echoed these concerns, and indicated that it had provided written comments on the notified measure, and hoped that China would take them into account. The requirements in the notified measure seemed burdensome and costly, and not necessarily in line with the requirements of the SPS Agreement.

16. China explained that the notified measure was not new, but would repeal the original registration requirement, established in March 2002. The registration procedures would not include fees, only guidance on how to register. The question whether there would be any other charges was still under discussion, and would be announced separately after approval. Registration renewal should be requested before expiration, and as food enterprises were categorized according to different risk levels, the application process and specific verification requirements would differ accordingly.

EUROPEAN UNION - CONCERNS RELATED TO MEASURES MAINTAINED BY THE EUROPEAN UNION

Food safety

238. Application and modification of the EU Regulation on novel foods

Raised by:	Colombia, Ecuador, Peru
Supported by:	Argentina, Bolivia, Plurinational State of, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Benin, El Salvador, Honduras, India, Indonesia, Mexico, Paraguay, Philippines, Uruguay, Bolivarian Republic of Venezuela

Dates raised:	March 2006 (G/SPS/R/40, paras 21-29), June 2006 (G/SPS/R/42, paras 35-37), October 2006 (G/SPS/R/43, paras 140-143), February 2007 (G/SPS/R/44, para. 64), April 2008 (G/SPS/R/49, paras 48-52), October 2008 (G/SPS/R/53, paras 19-23), October 2009 (G/SPS/R/56, paras 53-55), June 2011 (G/SPS/R/63, para. 32), October 2011 (G/SPS/R/64, paras 72-73)
Relevant document(s):	G/SPS/GEN/681, G/SPS/GEN/699, G/SPS/GEN/700, G/SPS/GEN/713, G/SPS/GEN/714, G/SPS/GEN/733, G/SPS/GEN/735, G/SPS/GEN/1087, G/SPS/GEN/1117
Solution:	
Status:	Not reported
Date reported as resolved:	

17. In March 2006, Colombia raised concerns on the application of the EC Regulation on Novel Foods (Regulation No 258/97) and with the draft project of the European Commission to amend the regulation, foreseen to enter into force in 2007. The amendment could directly affect the trade potential of traditional and exotic foods.

18. Some traditional and exotic products already had substantial presence in the US and Japanese food markets, and European consumers were now becoming interested in these food products. It was important to recall, however, that these traditional foods had been consumed in South America for thousands of years. This was in contrast to genetically modified products which could be considered as real Novel Foods.

19. Increased trade in traditional and exotic products also had important socio-economic impacts, as the export of these products represented a measure to decrease extreme rural poverty in South America and had potential to address specific social and environmental issues, such as providing alternatives to both the growing of narcotic crops and to the illegal felling of protected forests.

20. Colombia was aware of the importance of protecting consumer health. However, the amount of information on the safety of these traditional food products required by the EC regulation and the costs to undertake scientific studies were not proportional to health risks and were excessive especially for small scale farmers and exporters. The proposed amendment of Regulation 258 would result in a non-tariff barrier to trade with negative effects on the introduction of traditional foods into European markets, contrary to Articles 2.2 and 5.6 of the SPS Agreement.

21. Columbia requested the European Communities to consider the following points regarding the amendment of the Regulation 258/97:

(a) The non-application of Regulation 258 to exotic, traditional products with a history of safe consumption in their region of origin;

(b) Greater transparency and clarity in the procedures and definition, giving credit to a safe consumption history of food in the country of origin; requirements, tests, and procedures in proportion with the nature of the foods concerned and the risks they could imply for consumers; and all exotic traditional products to remain in the public domain and no private entity to be granted privileged access to the European market.

22. Ecuador reported that the amendment would also affect the trade potential of traditional and exotic food from its country. In light of Ecuador's great biodiversity, over the last decade international organizations like UNCTAD had been promoting the development of new export

products ("Bio-Comercio"). In Ecuador also the export of traditional and exotic foods had major socio-economic impacts and related closely to efforts to overcome rural poverty. Ecuador invited the European Communities to consider carefully Colombia's recommendations regarding the amendment. The amendment of the regulation and its impacts were of importance for many developing countries.

23. Peru added that currently, within the Convention on Biological Diversity, countries were discussing measures and mechanisms for the preservation and sustainable use of biodiversity. Contrary to that approach, the application of Regulation 258 would restrict greater sustainable use of traditional and exotic products, by diminishing their export potential. Peru stressed the high costs and the long period of time needed for products to be registered under Regulation 258 to allow them to enter the European market. Peru also supported the Colombia's recommendations regarding the amendment (G/SPS/GEN/681).

24. Brazil, Chile, Costa Rica and Paraguay reported that their exports had also been affected by Regulation 258/97. Benin requested more information on how a product was considered as "novel". Argentina and Mexico both indicated that they were still in the process of analyzing the implications of the regulation. El Salvador, Honduras, India, Uruguay and Venezuela expressed their interest in the topic and shared the concerns of Colombia, Ecuador and Peru.

25. The European Communities confirmed that Regulation 258/97 was being reviewed and recognized that some modifications were needed. A 40-page document which might answer a lot of questions would be circulated as an SPS document shortly. The document set out clearly the purpose and scope of the regulation, which was targeted at new food technologies, including genetically modified products. As the food industry was investing in different new technologies, Regulation 258 aimed to reassure European consumers of the safety of those technologies. The vast majority of applications for authorization of Novel Foods had been from within the European Communities. The European policy was aimed at striking the right balance between encouraging technical innovation and ensuring that consumers are protected. Some products marketed as "products of biodiversity" had in the past turned out to be unsafe and harmed the users. Dealing with such products was thus in the interest of all stakeholders, considering the damage to the image of products if they were marketed in an unsafe manner. The European Communities invited interested stakeholders to submit comments and make their views known.

26. In June 2006, Peru raised further concerns regarding the EC novel food regulation. In Peru's view, one of the major problems of the EC regulation was that it did not distinguish between new foods that had not been consumed before anywhere, and those that were new only to the European Communities, which was the case for most of the traditional exotic products originating from developing countries. Peru requested that the European Communities provide information showing that it was necessary to apply this measure to traditional exotic products, in accordance with the provisions of the SPS Agreement. Peru considered that the regulation constituted an unnecessary and unjustified barrier to trade due to the cost and time required to gain approval for Novel Foods, even if they had a history of safe consumption in their countries of origin, and requested the exclusion of traditional exotic products from the novel food category. Peru also requested that the European Communities explain how special needs of developing countries had been taking into account in accordance with Article 10 of the SPS Agreement (G/SPS/GEN/713).

27. Bolivia, Brazil, Colombia, Ecuador, India, Paraguay and the Philippines shared the concerns raised by Peru. Ecuador indicated that a study on the impact of the novel food regulation was about to be finalized. Preliminary results of this study showed that this regulation could have negative economic and social consequences for Ecuador's production system by having an effect both on current exports and on products with export potential in the European Communities that were currently marketed in other countries (G/SPS/GEN/714). Bolivia and Colombia highlighted that some of the products were currently being promoted inter alia by policies supporting alternatives to narcotic

crops, some of which were funded by the European Communities or its member States. The Philippines indicated that the effects of the novel food regulation and of EC regulations on genetically modified food were still being evaluated.

28. The European Communities stressed that the concerns expressed were being taken seriously, and that the novel food regulation was currently under review (G/SPS/GEN/699 and 700). The original intention of the novel food regulation had been trade-creating; its purpose was to authorize trade in Novel Foods. In addition, products that had already been traded prior to 1997 had been exempted. The regulation had been targeted mainly at EC companies. The regulation had been successful in that new foods were being approved on the basis of safety assessments. A statement that a product had been consumed for centuries was not sufficient. The European Communities highlighted that very few applications for approval of traditional exotic products had been received, so that there were very few case studies. Traditional exotic products was a broad category including some items where there had been safety concerns. In the context of the review of the regulation, the European Communities indicated that it would be helpful to receive more information on these products, including a clear definition of the products at issue whether they had been approved in other export markets, and safety-related data available, as well as information on the socio-economic impact.

29. In February 2007, Peru noted that although it had not requested that this issue be on the agenda for this meeting, it would welcome an update from the European Communities on current developments. The European Communities indicated that the Novel Foods Regulation was being revised. It had initially been designed to cover a full range of Novel Foods, from GMO foods to products of biological diversity. Following public consultations and the consideration of the views and comments received, revised legislation was being prepared. The European Communities anticipated that the result would be a two-tiered process, with products that had a long history of safe use subjected to less rigorous procedures than other Novel Foods. The European Communities was looking to address the concerns identified by trading partners, while ensuring consumer safety.

30. In October 2007, Columbia, Ecuador and Peru reiterated concerns relating to EC Regulation 258/97 on Novel Foods (G/SPS/GEN/733 and G/SPS/GEN/735). They considered that the regulation constituted a non-justified barrier to trade in these products as it was not flexible and made no distinction between novel (GMO) foods and traditional foods with no known risks. They noted that exotic products originating from Latin America were not the result of any type of genetic modification but rather formed part of the biodiversity of the region and were consumed traditionally. Also there were inconsistencies in the way this regulation was applied throughout the European Communities. The European Communities had not considered the fact that many of the traditional products had been marketed in a number of countries with very strict sanitary standards as they posed no health risks to consumers.

31. The European Communities was requested to promptly review Regulation 258/97, and to exclude from its scope of application exotic traditional products resulting from biodiversity. The European Communities was also encouraged to take into account scientific assessments and relevant evidence from other countries and competent international organizations when risk assessments were made, and to establish different procedures for foods of known risk and no known risk in the European Communities. The European Communities was also requested take into account the history of the product, the consumption patterns and traditional knowledge relating to its use and preparation, so as to provide for greater flexibility in the application of the regulation and facilitate the entry of exotic traditional products into the European market.

32. Bolivia, Brazil and the Philippines shared the concerns of Peru, Ecuador and Columbia. The Philippines highlighted the fact that the regulation could become an unjustified non-tariff barrier to the EC market in view of the unclear technical distinction between these products and other products.

The Philippines expressed hope that progress would be made on the issue and a mutual solution found as soon as possible.

33. The European Communities reminded the Committee that the issue had been discussed in the SPS Committee on previous occasions and there had been various exchanges of communications between the Members concerned. The European Communities acknowledged the problem with traditional products, which were not in the EC market prior to 1997 and noted that the regulation was not discriminatory as EC producers had to undergo similar risk evaluations. Nonetheless, the European Communities imported an enormous volume of foods and vegetables. They reiterated the request that the Members concerned submit data on the volume of trade and risk assessments carried out in other developed countries. The European Communities indicated that the EC Commission was putting forward a new proposal that addressed the genuine concerns of Members. A public consultation had been held on the matter and the European Communities appreciated the contributions from the concerned Members.

34. In April 2008, Colombia, speaking on behalf of Bolivia, Chile, Costa Rica, Ecuador, Mexico, Paraguay and Peru recalled the concerns previously expressed regarding the proposed revision of the EC Regulation 258/97, as contained in COM(2007)872. The proposed regulation had been notified to the TBT Committee, however these Members considered that it was appropriate to continue to consider this issue in the SPS Committee. These Members welcomed the proposed recognition of traditional food products from third countries, resulting from their biodiversity and with a history of safe use for large proportions of the populations of these countries. This recognition could facilitate trade, which was particularly important as the production of these traditional products was often part of programs to diversify agricultural production and exports.

35. Colombia noted that a number of concerns remained. The proposed definition of a traditional foodstuff was that it had been part of the diet of a large part of the population for at least one generation. This definition could restrict those products that were part of the dietary traditions of certain subpopulations or regions of the country. It would also be useful to clarify how a "generation" was to be defined. Another concern was that requests for authorization would have to come from commercial operators, hence excluding such requests from the competent governmental authorities or producer associations. These Members also suggested that information regarding safe use of the traditional food in other countries should also be considered.

36. The concerned Members recognized that although the proposed process had been considerably simplified, a period of five months was still foreseen for consideration of a request, and they suggested that three months should be sufficient. These Members remained concerned that the definition of a novel food remained a product that had not been consumed in the EC market prior to 1997, which seemed to bear no relation to the scientific evidence regarding the safety of a product.

37. Brazil indicated that it supported the concerns raised by Colombia on behalf of eight countries. Brazil was still analyzing the relevant documents, but considered the issues raised by Colombia to be very important.

38. The European Communities stated that a revision of the legislation was underway, in particular the provisions on traditional products and products of biological diversity, in response to concerns raised by various developing countries. A much simplified procedure was now being developed. A range of legitimate and reasonable concerns had been expressed, and these should be communicated directly to the relevant EC services, since the legislation was currently under consideration. While the concern was that the EC legislation might be a barrier to trade in traditional products, this should be seen in the broader context: The European Communities was by far the world's largest importer of fruits and vegetables, especially from developing countries, hence the import regime in general was extremely import friendly.

39. In October 2008, Peru requested that there should be a notification to the SPS Committee regarding the modification of the EC Novel Foods Regulation. Many exporting Members failed to understand the content of the regulation, why some products were banned, while others were not. Also, the regulation gave exporting countries, many of which were developing countries, the burden of proof that their products were safe and complied with the EC Regulation.

40. Brazil, Colombia, Costa Rica, Cuba, Ecuador, Mexico, Paraguay and the Philippines shared Peru's concerns regarding the EC Regulation on Novel Foods.

41. UNCTAD reported that it was contributing to the review of the EC Regulation on Novel Foods in three specific areas: (1) revising the procedure, which required more scientific clarification; (2) facilitating dialogue between the European Communities and developing countries; and (3) analyzing legal aspects of current regulations in the context of multilateral agreements.

42. The European Communities stated that the existing legislation was too ambitious in covering a whole range of Novel Foods. For this reason, the European Communities planned to revise the regulation, as had been notified to the TBT Committee. This proposal had been under negotiation in the EC Parliament and Council. However, there were concerns regarding the approval of some products. For instance, matters became complicated when exporters requested the classification of food supplements as Novel Foods, rather than whole fruits and vegetables. However, the revised procedure was expected to be more flexible, and some Novel Foods had already been approved for entry into the EC market.

43. The European Communities noted that in this specific case, the legal advice had been to only notify the proposed revision to the TBT Committee since it covered approval procedures for Novel Foods in general. This did not preclude that the issue could be discussed at the SPS Committee. In response to a query, the Secretariat clarified that it generally recommended that draft regulations with any SPS content should be notified to the SPS Committee, even if these regulations were also notified to the TBT Committee.

44. In October 2009, Peru recalled that the entry of traditional exotic products to the European market had been seriously affected by the EC regulation on novel foods. The measure contravened the activities that the European Communities themselves had been undertaking to support small producers and to open the EC market to new and exotic products. Various exotic products had been certified by the Health and Environment Authority of Peru, which certified the safety and compliance with a HACCP system, and these products were fit for human consumption and could be marketed internationally. Peru expressed concern about the continuous loss of business opportunities due to this measure and asked for an update on the modification progress.

45. Brazil, Colombia, Ecuador, and Mexico supported Peru's concerns regarding the EC regulation on Novel Foods.

46. The European Communities stated that on 15 January 2008, the EC Commission had submitted to the Council and the European Parliament a proposal for the revision of the Novel Food Regulation. The proposal was notified to WTO Members in March 2008 under the TBT Agreement. The reference period for establishing a history of safe food use had been changed to a period of 25 years, and consumption data could originate from any third country and not necessarily from the country that submitted the application. The possibility to apply for a novel food authorization had also been opened to any interested party. The proposal kept the main rules currently applicable to novel goods, but simplified EC market access for traditional foodstuffs from third countries which had a history of safe use and put in place proportionate regulatory measures. The proposal was still under negotiation and its adoption was foreseen for July 2010.

47. In June 2011, Peru again raised concerns about Regulation 258/97 that restricted foods which had been categorized as novel foods. This particularly affected trade in Peruvian traditional foods that were safely sold in the United States and Japan (G/SPS/GEN/1087).

48. Colombia shared the concern of Peru, as this regulation was an unjustified barrier to trade of traditional foods and consequently impeded economic activities. In 2009, the European Union had agreed to change this regulation in a way that would take into account traditional foods. This modification had not been implemented, however, because of disagreements that the European Council and the European Parliament had regarding products of cloned animals, although there was general agreement on traditional foods. Colombia encouraged the European Union to separate these issues and resolve the matter of traditional foods by the end of 2011.

49. Brazil, Chile, China, Costa Rica, Indonesia, Mexico and Paraguay supported the concerns raised by Peru and Colombia.

50. The European Union recalled that on 15 January 2008, steps were taken to update the existing novel food rules in an effort to facilitate applications for novel food authorizations and to simplify market access to the European Union for traditional foodstuffs from third countries which had a history of safe food use. However, the initial proposal submitted to the co-legislators was not adopted. The main stumbling blocks related to provisions regarding food from cloned animals and nanotechnology. Any new regulation would contain a centralized and quicker authorization procedure for novel foods and specific measures for traditional foods, as agreement had indeed already been reached on this issue between the European co-legislators.

51. In October 2011, Peru recalled its concerns about Regulation 258/97 that restricted foods which were not marketed in the European Union before May 1997 and had therefore been categorized as novel foods (G/SPS/GEN/1117). This particularly affected trade in Peruvian traditional foods that were safely sold in the United States and Japan. Brazil, Chile, Columbia, Costa Rica, Ecuador, Mexico and Paraguay shared the concerns raised by Peru.

52. The European Union stated that there was as yet no new novel food regulation. Nonetheless, agreement had already been reached between the European co-legislators that any new regulation would contain a centralized and quicker authorization procedure for novel foods and specific measures for traditional foods.

306. Maximum residue levels of pesticides

Raised by:	India
Supported by:	Brazil, Pakistan, Thailand
Dates raised:	October 2010 (G/SPS/R/61, paras. 17-19), March 2011 (G/SPS/R/62, paras 56-58), October 2011 (G/SPS/R/64, paras 67-68)
Relevant document(s):	Raised orally. G/SPS/N/EEC/196/Add.2, G/SPS/N/EEC/196/Add.10, G/SPS/N/EEC/382, EU Revised Plant Protection Regulation 1107/2009, EC Regulation 396/2005.
Solution:	
Status:	Not reported
Date reported as resolved:	

53. In October 2010, India referred to three EU notifications on the adoption of MRLs for certain pesticides (G/SPS/N/EEC/196/Add.2, G/SPS/N/EEC/196/Add.10 and G/SPS/N/EEC/382) within the

framework of the EU Revised Plant Protection Regulation 1107/2009. EC Regulation 396/2005 established the legislative framework for MRLs of pesticides in or on food and feed of plant and animal origin, which was notified by the European Commission in April 2005. India was concerned that the MRLs for a number of chemicals were set at the "limit of detection" (LOD). This was the residue limit which could be detected using analytical methods/testing procedures available in Europe. Different climatic conditions in India required a different use of pesticides in agricultural production. No scientific evidence had been provided to justify the setting of the MRL at the LOD, especially for imported products. For some substances, the MRLs in EU cereals was much higher than the approved level of the same substance in rice. The setting of MRLs at the LOD had impacted India's exports of agricultural products to the European Union, and India requested the European Union to provide the validated testing methods it used to arrive at the LOD as well as the scientific basis and risk assessment for the MRLs. India considered that the EU MRLs resulted in the violation of Articles 2.2, 2.3, 3.1, 5.1 and 5.4 of the SPS Agreement.

54. Thailand shared India's concerns, observing that in the recent EU notifications the proposed MRLs for some chemicals were much lower than the levels set by Codex. The representatives of Brazil and Pakistan also shared India's concerns about the EU procedure for establishing MRLs.

55. The European Union explained that the new legislation on pesticide residues was in place since 1 September 2008. MRLs had undergone a common EU consumer intake assessment carried out by the European Food Safety Authority (EFSA) to make sure that all classes of consumers, including vulnerable ones such as babies and children, were sufficiently protected. The validated analytical methods used by the European Union could be found on the website of the EU Reference Laboratories for Residues of Pesticides. The model used for estimating the dietary intake of 27 EU consumer groups was available on the EFSA website. The risk assessment methodology used for setting the MRLs came from the framework established by the Codex Alimentarius, as described by a 2002 Joint FAO/WHO Meeting on Pesticide Residues' (JMPR) report. An LOD was set when there was a safety concern for consumers from the use of a pesticide at high levels or when there was no authorized use on a specific crop within the European Union or third countries. The proposed revision of the EU MRLs had been notified to the WTO in 2003, 2005 and 2007, and all WTO Members and stakeholders had also been informed about all the individual values that were proposed. The MRLs were fixed and published in the Official Journal if no reaction to the notifications had been received. Nevertheless, applicants in and outside the European Union could apply to have import tolerances set for higher MRLs in specific cases. Although the European Union was aware of the different geo-climatic conditions in India, data on the safety of imported products was still necessary.

56. In March 2011, India stated that the European Union had harmonised its pesticide residue levels under Regulation No. 396/2005 on MRLs for pesticides on food and feed of plant and animal origin. A default level of 0.01mg/kg had been applied on many chemicals, and the European Union had claimed that the MRLs had been set at the Level of Determination (LOD). However, without a validated test, it was not clear how the LOD was set and consequently the MRL, as scientific evidence had not been provided despite substantially higher levels for the same chemicals existing in other countries. India re-stated its concerns relating to: (i) non- harmonization with international standards; (ii) lack of risk assessment; (iii) misuse of Article 5.7 of the SPS Agreement; (iv) lack of attempt to minimize negative trade effects; and (v) European Laws and Regulations.

57. The European Union noted that trading partners could apply for higher MRLs by providing scientific evidence. With respect to the commodities of interest to India, the European Union had indicated that given the economic significance of those commodities, it was prepared to modify the relevant MRLs. India had already submitted an application for a higher MRL which was under evaluation and, pending the outcome of that evaluation, an import tolerance would be set.

58. In June 2011, India recalled that the European Union had previously indicated that its trading partners could apply for higher MRLs by providing scientific evidence. However, the application of the precautionary principle in the case of chemicals that had been used for decades without any negative effects resulted in an unjustified trade barrier. The MRLs had been set at the level of detection (LOD) without a risk assessment. The LOD was the limit below which residues could not be detected by using sophisticated analytical methods, virtually a zero tolerance, and imported food items containing small traces of pesticides were being adversely affected. In addition, the European Union had not made, or not shared, any scientific assessments that justified the default MRL for some pesticides. The default MRLs created distrust as private labs were being used to run the assessments and at times they used testing methods which were not in line with the European Commission guidelines on method validation and quality control procedures for pesticide residue analysis in food and feed. Furthermore, the aggressive business behaviour by private labs in approaching exporting countries like India for pre-screening services was a cause for concern. India requested that the European Union provide the scientific justification for the current MRLs for certain pesticides, rather than shifting the burden of proof onto exporters by requiring that they provide justifications when applying for higher MRLs. India urged the European Union to take effective steps to remove these trade restrictive measures.

59. The European Union stated that the new legislative framework in operation since 2008 had completed the harmonization and simplification of pesticide MRLs and eliminated all technical barriers to trade. The full details of the EU policy on pesticides had been presented at the March SPS Committee meeting. India had already submitted an application for a higher MRL for isoprothiolane on rice which was being evaluated by the European Food Safety Authority (EFSA), however, further information was required from India. As far as grapes were concerned, data from 2011 indicated that no obstacles had been identified.

60. In October 2011, India recalled that the European Union had previously claimed to have a non-discriminatory, open, transparent and predictable procedure for setting MRLs. However, India questioned the scientific basis for using the level of detection (LOD) method and for setting MRLs for certain pesticides at default levels of 0.01 mg/kg, as well as the validation testing methods used by the European Union to arrive at the level of detection. The EU method of setting MRLs was discriminatory as it affected the trade of certain products and did not conform to the SPS Agreement. India had been informed that a Member could apply for a higher MRL, however the EU procedure was lengthy, costly and burdensome. India urged the European Union to replace its ad hoc discriminatory, opaque, and unscientific measures with more predictable and science-based ones.

61. The European Union stated that the procedure to apply for an MRL that was greater than what was foreseen in the EU legislation was non-discriminatory, open and transparent. Setting the MRLs at the default level for some pesticides facilitated trade, in contrast to a zero-tolerance approach. Trade had not been interrupted as a result of this legislation, and particularly not in commodities of interest to India. An opinion from the EFSA on India's application for a higher MRL for isoprothiolane on rice was expected in the first quarter of 2012, and on the basis of this evaluation, the European Union would decide whether a higher MRL could be safely set.

322. EU regulation on polyamide and melamine plastic kitchenware

Raised by:	China, Hong Kong, China
Supported by:	
Dates raised:	March 2011 (G/SPS/R/62, paras 155-157), June 2011 (G/SPS/R/63, paras 46-48), October 2011 (G/SPS/R/64, paras 49-51)
Relevant document(s):	Raised orally.
Solution:	

Status:	Not reported
Date reported as resolved:	

62. In March 2011, Hong Kong, China reported that on 22 March 2011, the European Union had enacted Commission Regulation No. 284/2011, outlining a more stringent set of testing controls for the imports of polyamide and melamine plastic kitchenware, originating in or consigned from China and Hong Kong, China. Hong Kong, China was concerns that while the regulation would take effect on 1 July, it had not yet been notified. Hong Kong, China was also concerned that the restrictions were discriminatory, and that despite bilateral discussions, Hong Kong, China`s concerns had not yet been addressed.

63. China supported the views expressed by Hong Kong, China and noted that the EU restrictions were discriminatory as they only applied to China and Hong Kong, China. China requested that the European Union provide scientific justification for the measures, and postpone the effective date of the regulation.

64. The European Union recalled that in accordance with the Committee's working procedure, the European Union should have been informed at least ten days in advance of the meeting of the intention to raise such a specific trade concern. As this had not been the case, the European Union would not reply in detail to the concern raised in the formal meeting. The European Union stated, however, that the matter had already been discussed bilaterally with China in the margins of the meeting that same morning and that another bilateral meeting with Hong Kong, China was being set up to take place before the next Committee meeting.

65. In June 2011, China indicated that the European Union had not provided an adequate transition period for manufacturers to adapt to EU Regulation 284/2011. Although the EU framework legislation 669/2009 had been notified, it was a very general regulation that Members could not use to predict the application of specific measures to particular products. China requested that the European Union notify EU Regulation 284/2011 and provide a reasonable comment period. The European Union was requested to provide all notifications and alerts concerning plastic kitchenware received by the rapid alert system, not only those originating in or consigned from China and Hong Kong, China, and ensure that its measures were not arbitrary or unjustifiably discriminatory. Furthermore, the European Union should ensure the plastic food contact material product standards in 2002/72/EC and the 15 mg/kg formaldehyde limit in Regulation 284/2011 were based on international standards; or else provide data, risk analysis, and testing reports of the substances found in plastic kitchenware in order to prove the measures were based on sufficient scientific evidence.

66. Hong Kong, China remained unconvinced that the measure introduced by the European Union was non-discriminatory, given that the regulation imposed a more stringent import requirement on consignments from Hong Kong, China vis-à-vis those from other countries with a similar export or re-export trade. It did not appear that the EU regulation referred to any international standard, and Hong Kong, China urged the European Union to notify the regulation and to conduct an early review of the measure with the purpose of repealing any discriminatory measure against the relevant products originating in or consigned from Hong Kong, China.

67. The European Union stated the regulation had its legal basis in Regulation 882/2004 on official food and feed controls and in Directive 2002/72 on provisions relating to plastic materials and articles intended to come into contact with foodstuffs. These regulations were notified in 2002 and 2003, respectively. Mandatory border controls for plastic kitchenware imported from China and Hong Kong, China had been imposed as of 1 July 2011 due to the high number of alerts received regarding the non-compliance of these products. The EU Food Veterinary Office (FVO) inspection

missions to China and Hong Kong, China also reported there were insufficient export control systems in place for these products. While the particular measures in question were applied only to China and Hong Kong, China, the measures were not discriminatory because they were applied solely for the reasons identified. The measures were proportionate and did not impose burdens additional to what was applicable to European products. The measures were also limited to the extent necessary to control the risk identified, and were scientifically justified on the basis of an opinion from EFSA. The measures would remain in place until the situation changed and the border controls revealed a significant drop in non-conforming products. The European Union was willing to offer assistance regarding how the relevant procedures must be applied in practice, had published guidelines on the implementation of the regulation and provided information on the EU website regarding technical information on the physical checks that were applied.

68. In October 2011, China reported that c with EU officials had not resolved the problem. China again requested all notifications concerning plastic kitchenware under the Rapid Alert System, not only those from China and Hong Kong, China, to ensure that the EU measures were not arbitrary or unjustifiably discriminatory. China also repeated its request that the European Union provide data, its risk analysis, and testing reports of the substances found in plastic kitchenware, to prove the measures were based on sufficient scientific evidence.

69. Hong Kong, China restated its concern that the EU measure was discriminatory, as it imposed more stringent import requirements on consignments from Hong Kong, China compared to other countries and urged the European Union to eliminate any discrimination against products originating in or consigned from Hong Kong, China.

70. The European Union indicated that it had explained the scope of the regulation and its applicability in bilateral discussions with China, in November 2010, and also with Hong Kong, China, and had sent copies of the final draft regulation to the respective relevant authorities both before and after the discussions. An EU contact point had been established to help exchanges between the competent authorities. The measure had been notified to the WTO at the beginning of July 2011 (G/SPS/N/EEC/406) to ensure that Members would better understand the discussions on this trade concern. Mandatory border controls for plastic kitchenware imported from China and Hong Kong, China had been imposed as of 1 July 2011 due to the high number of alerts received regarding the non-compliance of these products. The inspection missions carried out by the EU Food and Veterinary Office (FVO) to China and Hong Kong, China had also shown that China had deficiencies in its export control systems for these products. The particular measures in question were applied only to China and Hong Kong, China, but were not discriminatory. The measures did not impose burdens additional to what was applicable to EU products, were limited to the extent necessary to control the identified risks, and were scientifically justified on the basis of an opinion from EFSA. The measures would remain in place until the border controls revealed a significant drop in non-conforming products, and China's export controls were improved.

325. EU regulations on cadmium in cocoa beans

Raised by:	Ecuador
Supported by:	Brazil, Colombia, Costa Rica, Dominican Republic, Nicaragua, Peru, Venezuela
Dates raised:	October 2011 (G/SPS/R/64, paras 39-41)
Relevant document(s):	Raised orally.
Solution:	

Status:	Not reported
Date reported as resolved:	

71. In October 2011, Ecuador expressed concern that the European Union was considering modifying the maximum level of cadmium in cocoa and cocoa products, and was planning to apply a maximum limit between 0.3 and 0.5 milligrams per kilogram (mg/kg), in the context of Regulation (EU) No 420/2001. Ecuador urged the European Union to base any maximum limits on cadmium on appropriate scientific studies. The Joint FAO/WHO Expert Committee on Food Additives (JECFA) had established a level of acceptable weekly consumption of 5.8 micrograms of cadmium per kilogram of body weight (µg/kg), more than twice the tolerable weekly intake concluded by the European Food Safety Agency (EFSA). Ecuador requested further information on the EU risk analysis, and stressed that any possible maximum residue limit (MRL) should be set as low as reasonably possible (ALARP principle). Some of Ecuador's soil contained cadmium, but it had adopted mitigation measures so as to produce high-quality cocoa not detrimental to human health.

72. Brazil, Colombia, Costa Rica, Dominican Republic, Nicaragua, Peru and Venezuela shared the concerns raised by Ecuador. They asked the European Union to provide the technical and scientific basis on which it was considering regulating cadmium in cocoa and chocolate, and stressed that any possible maximum limits should be based on science.

73. The European Union recalled that neither it nor Codex had established a maximum level for cadmium in cocoa or cocoa products to date. However, JECFA had reviewed its toxicity in commodities in 2010 and set the tolerable weekly intake at approximately six micrograms per kilogram of body weight. In contrast, EFSA had identified a lower tolerable weekly intake of 2.5 µg/kg of body weight in 2009 and in 2010. Based on the 2009 and 2010 EFSA scientific opinions for cadmium, the European Union had initiated a review of maximum levels for cadmium in different types of foodstuffs, including chocolate and cocoa products sold to the final consumer, since cocoa and chocolate products contribute significantly to human exposure and in particular exposure of children. Discussions were still on-going, but any limits would be based on realistic occurrence data of cadmium in cocoa and cocoa products compiled from different geographical origins and would be set as low as reasonably achievable.

327. EU Court of Justice ruling regarding pollen derived from GMOs

Raised by:	Argentina
Supported by:	Canada, Mexico, Paraguay, United States, Uruguay
Dates raised:	October 2011 (G/SPS/R/64, paras 44-46)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

74. In October 2011, Argentina stated that on 6 September 2011, the European Court of Justice (ECJ) had adopted a new interpretation of the scope of EC Regulation No. 1829/2003, considering pollen derived from GM crops as an ingredient of honey and not a natural component. This was in conflict with the Codex standard for honey. The ruling resulted in legal uncertainty, which lead European importers to interrupt purchases of honey produced in Argentina pending the implementation of the ruling, to the detriment of the very small scale beekeepers and regional

economies that depended on this activity. Argentina requested the European Union to promptly take all necessary measures to remove the uncertainty caused by the ECJ judgment, and to ensure that implementation of the ECJ judgment did not restrict honey imports.

75. Canada, Mexico, Paraguay, the United States and Uruguay shared the concerns of Argentina. Mexico expressed its appreciation for having been invited for further discussions in Brussels on the implementation of the ECJ decision. Brazil emphasized that the EU policy regarding GMOs was trade restrictive and observed that it faced similar problems concerning red beans.

76. The European Union observed that honey containing GM pollen had previously been considered to be outside the scope of the relevant legislation. Following the ruling, GM pollen in honey must be explicitly authorized before entering the EU market, and imported honey products which contained GMOs that were not authorized for use in pollen would not be allowed. Even though the specific GM crop in this case (MON 810) had been authorized in the European Union for more than ten years, it had not been authorized for uses which included pollen. The European Union was taking steps to fill the existing regulatory gaps until EFSA provided an opinion on the safety of the MON 810 pollen in honey, and was considering how to ensure the proper implementation of the ruling without unnecessarily disrupting the supply of honey to EU consumers. It would be holding open dialogues with its member States, all interested third countries and other stakeholders.

Animal Health

300. EC Regulation No. 1099/2009

Raised by:	India
Supported by:	China, Viet Nam
Dates raised:	June 2010 (G/SPS/R/59, paras. 24-27), October 2010 (G/SPS/R/61, paras 31-33), March 2011 (G/SPS/R/62, paras 48-50), June 2011 (G/SPS/R/63, paras 40-41)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

77. In June 2010, India raised concerns about EC Regulation No. 1099/2009 dated 24 September 2009 regarding the humane treatment of animals at the time of slaughter, which was to enter into force on 1 January 2013. Under Article 12 of the regulation, the import of meat from third countries must be supplemented by a health certificate indicating that requirements at least equivalent to those established in Chapters II and III of the regulation had been met. According to India, this specific regulation had not been notified by the European Union despite being a trade-restricting measure. India sought clarification on the justification for this regulation and for animal welfare requirements that may not fall under the SPS Agreement. India also inquired about: (i) how equivalence may be assessed, including details of the certification process; and (ii) how EU experts would ensure that animals were slaughtered in humane conditions and received clearance from the European Union.

78. China supported the concerns raised by India and noted that it would continue to follow the issue.

79. The European Union reported that the regulation would enter into force on 1 January 2013 and was based on two publicly available scientific opinions which had been forwarded to the Indian authorities. The European Union clarified that regulations regarding animal welfare conditions at the

time of stunning and slaughter had been in place since 1993, and that regulation No. 1099/2009 re-addressed the issues, but did not impose new requirements. The European Union believed that the measures were not more restrictive than necessary and that the regulation recognized the principle of equivalence. The system had proved to be effective over a 15 year time period and other countries had developed similar legislation, based on the OIE Code and consistent with international standards. Nevertheless, the European Union would ensure continued cooperation among experts to address any concerns before the legislation entered into force in 2013.

80. The OIE clarified that if the measures were to control animal health, including ante- and post-mortem inspections, then they were relevant to SPS. Although animal welfare was not a SPS-related issue, OIE members had adopted a resolution in 2004 for OIE to undertake further work on animal welfare issues, and OIE members had the opportunity to comment on those standards, particularly through the Animal Welfare Working Group.

81. In October 2010, India again expressed concern that the EU regulation contained animal welfare requirements that would be trade restrictive, and as the slaughter of animals was a sanitary issue, this measure should be notified to the WTO. Although the regulation was based on OIE standards, only those OIE standards that had the objective to control animal health, including ante- and post- mortem inspections, fell within the scope of the SPS Agreement. The new regulation introduced animal welfare requirements beyond those that had been in place since 1993, and therefore the European Union should notify the regulation to the WTO and give Members time to submit comments. India asked: how trade issues would be linked with animal welfare issues; how equivalence of measures would be assessed; whether the provisions of Article 12 of the EU regulation were in line with any WTO agreements; and whether Article 5 of the regulation would require that all establishments exporting meat receive a prior clearance from the European Union.

82. Viet Nam noted that it shared India's concerns, in particular relating to fishery products.

83. The European Union indicated that the regulation was based on scientific findings, in particular two scientific opinions by the European Food Safety Authority in 2004 and 2006. These scientific opinions were publicly available and had been provided to India. As a major importer of meat products, and as a result of consumer preferences, the European Union required that certain animal welfare conditions be met at the time of slaughter. The measures contained in Article 12 of Regulation 1099/2009 were not more trade restrictive than those currently enforced. There was no obligation for countries to apply the same or identical measures, but measures that were equivalent in achieving the same aims were acceptable. The principle of equivalence had existed and been applied since 1993. The regulation took into account the international animal welfare standards on the slaughter of animals developed by the OIE. It was the role of the EU Food and Veterinary Office to evaluate the equivalence of measures implemented in countries exporting to the European Union. The European Union welcomed collaboration between experts on animal welfare, as in the ongoing bilateral agreement with India, to exchange technical knowledge and achieve a common understanding on equivalency.

84. In March 2011, India repeated its concern that the EU's regulation introduced animal welfare requirements beyond those that had been in place since 1993, and that it should be notified to the WTO. India was particularly concerned that the provisions of Article 12 of the EU regulation were not in line with WTO agreements and that Article 5 would require that all establishments exporting meat receive a prior clearance from the European Union.

85. The European Union, supported by Chile, regretted that the topic was being discussed again as discussions at the October 2010 meeting had confirmed that animal welfare was not covered by the SPS Agreement. The European Union maintained that the regulation was based on science and took into account the OIE's animal welfare standards on the slaughter of animals, and that third countries

were not obliged to adopt the same requirements rather ones that were equivalent. Any remaining areas of concern could be clarified within the on-going free trade agreement negotiations between India and the European Union.

86. India noted that discussions at the October 2010 meeting had not been conclusive on whether or not animal welfare was covered by the SPS Agreement.

87. In June 2011, India inquired whether the European Union would notify EC Regulation No. 1099/2009. India requested clarification of whether Article 12 of the Regulation required that the health certificate be supplemented by an attestation certifying that requirements laid down in Chapters II and III or equivalent practices would be followed, and what would be the parameters for assessing equivalence in such a case. India also sought clarification regarding who was required to make the attestation and whether the certificate could be issued by persons involved in slaughter operations in third countries as referred to in Article 7 of the Regulation.

88. The European Union responded that the SPS Agreement does not cover animal welfare. The European Union also failed to understand the relevance of this to trade as India did not export pig, poultry or bovine meat to the European Union, nor had India provided any data on future plans to do so. . The European Union was willing to work with the relevant Indian authorities to address any impact that this legislation might have on India-EU trade, both current and potential.

INDIA - CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Animal Health

185. Restrictions due to avian influenza

Raised by:	European Union
Supported by:	Australia, Canada, China, United States
Dates raised:	March 2004 (G/SPS/R/33, paras 18-20), June 2004 (G/SPS/R/34, paras 42-43), October 2004 (G/SPS/R/35, paras 59-60), June 2007 (G/SPS/R/45, paras. 21-23), October 2007 (G/SPS/R/46, paras 29-32), April 2008 (G/SPS/R/49, paras 33-38), June 2008 (G/SPS/R/51, paras 31-35), October 2008 (G/SPS/R/53, paras 29-34), February 2009 (G/SPS/R/54, paras 17-20), June 2009 (G/SPS/R/55, paras 43-46), October 2009 (G/SPS/R/56, paras 40-43), March 2010 (G/SPS/R/58, paras 37-40), June 2010 (G/SPS/R/59, paras 39-41), October 2010 (G/SPS/R/61, paras 25-28), March 2011 (G/SPS/R/62, paras 37-40), June 2011 (G/SPS/R/63, paras 64-68), October 2011 (G/SPS/R/64, paras 81-93) (G/SPS/R/64/Add.2, paras 1-2)
Relevant document(s):	G/SPS/N/IND/13/Add.1, G/SPS/N/IND/14, G/SPS/N/IND/46/Add.3 and Add.4
Solution:	
Status:	Not reported
Date reported as resolved:	

89. In June 2004, the European Communities stated that India continued to apply import bans on a range of poultry products, including live birds, fresh meat and fresh meat products from several countries allegedly in response to highly pathenogenic avian influenza (HPAI), since February 2004. These blanket import bans were disproportionate to the risk and should be confined to imports from

regions affected by the disease in accordance with OIE recommendations. The European Communities was officially free of this disease, according to the OIE criteria, and had implemented safeguard measures to protect this sanitary status. He asked that India review the current ban and lift all restrictions on poultry products from the European Communities.

90. India responded that measures prohibiting poultry and poultry products had been implemented as temporary measures. New outbreaks of HPAI in WTO Members, but not within the territories of the European Communities, had been reported as recently as 4 June 2004. Since poultry production in India was typically a family-run business, Indian authorities were particularly concerned about potential human development of the disease.

91. In October 2004, the European Communities expressed concerns that India continued to impose a ban on some live animals and a range of products of animal origin due to the risk of entry of HPAI into India. India had issued two notifications, on 7 July and on 6 August, informing Members of the relaxation of the ban for a range of products. However, the ban was disproportionate to the risk and there was no scientific basis for some of the measures imposed by India. The ban should be confined to regions affected by the disease following OIE guidelines and recommendations. The European Communities had been declared by the OIE as being free of HPAI and safeguard measures had been put in place to protect and maintain this sanitary status. India was requested to review its ban and bring its measures into conformity with the SPS Agreement.

92. India reiterated that the ban was a temporary measure which was enforced due to the outbreak of avian influenza throughout the world. The prevalence of the family-based poultry industry and the significant numbers involved in the industry would make it impossible to control the disease if it spread to India. The situation had been under constant review since the imposition of the ban in February 2004. The ban on imports of poultry with vaccination and specific pathogen free eggs was lifted in July 2004. A subsequent review by an expert group resulted in the continuation of the ban on imports of certain products such as live and raw poultry and pig meat. Processed products from HPAI infected countries were allowed into India, however, and the situation continued to be monitored.

93. In June 2007,tThe United States noted that India was banning poultry, swine and other products in response to the detection of low pathogenic avian influenza (AI) in wild birds in some parts of the United States. These restrictions far exceeded the standards developed by the OIE for the control of AI. India failed to apply the concept of regionalization to the United States. India applied its ban against US products although no incident of HPAI had occurred in the United States; applied its ban to products that had been treated or processed in such a manner that the AI virus was killed; and applied its ban to species and products from animals that were not known to transmit the virus. Although India had recently notified a change to its measures to allow the entry of dry processed pet food, it continued to prohibit other heat-treated pet foods that posed no animal health risk.

94. The European Communities observed that they had similar concerns regarding India's measures. Although they had been seeking to resolve the matter bilaterally, problems continued to appear and reappear. All Members should apply the international standards, to ensure that the measures applied were proportionate to the risks. India's measure was applied even to products that had never been known to transmit AI, including pork meat.

95. India noted that high or low pathogenic strains of AI had been reported in more than 60 countries, and his authorities were concerned that the virus was spreading. The virus had important human health implications, given its high fatality rate. India had experienced an outbreak of HPAI in 2006 which had been successfully contained, and the country was now free of the disease. India was trying to safeguard animal and human health in its territory, and protect its family-run poultry industry. It therefore banned imports of poultry from any country which had experienced an outbreak of AI, whether highly pathogenic or low pathogenic. The United States had reported an outbreak of

low pathogenic AI. Countries free from AI could export livestock to India, and pathogen-free eggs for vaccine production were permitted from any country, regardless of its AI status. Because many wild birds visited India, this was a vector of concern. With regard to pet food, India had revised its health protocol notified in June 2007, and would take into account the comments made on this matter.

96. In October 2007, the United States reiterated concerns regarding India's ban on imports of US poultry, swine and their products due to detections of low-pathogenic AI in wild birds in the United States. India had made two notifications related to AI (G/SPS/N/IND/46/Add.3 and Add.4). The Add.3 document extended AI-related import prohibition to include pig bristles. Prohibiting the import of these products was not scientifically justified nor in compliance with the OIE guidelines based on the AI status of a country, region or zone. The United States requested that India remove all import restrictions on US origin live pigs and porcine products. India's Add.4 extended for a further six months the emergency measures it had put in place in August 2006. The United States expressed concerns with regard to India's continued emergency measures related to AI. The United States urged India to put in place permanent measures for trade in poultry products and AI, and to ensure that these measures were consistent with the provisions of the OIE Code chapter on AI. India's measures should distinguish between highly-pathogenic and low-pathogenic strains of AI, and allow for the application of regionalization.

97. The European Communities stated that India failed to recognize the difference between high and low pathogenic influenza as well as the AI-related differences between wild birds and domestic animals. The European Communities again encouraged India to follow the recommendations from the OIE.

98. India stressed the dangers related to AI and how widespread the virus had been. Following the 2006 HPAI outbreak in India, the country was extremely cautious to safeguard its animal and human health, particularly in view of the family run poultry industry in India and because AI was known to reoccur in countries where outbreaks had previously taken place. India restricted imports from countries reporting AI. The United States was currently positive for low pathogenic AI in poultry (LPNAIH5). India's import restrictions due to outbreaks of AI in the United States were clarified in detail to the United States during the last trade policy forum meeting held in New Deli. He contested the claim that India's regulations were not based on science by observing that the presence of LPAI in poultry was a notifiable disease according to the OIE as per the list of diseases in Article 2.1.3 of the Terrestrial Animal Health Code. Furthermore, as noted by USDA's factsheet on AI, LPAI had a high potential to mutate into highly pathogenic AI; a view that India shared. Nonetheless, India regularly reviewed its trade regulations in the light of new developments on AI. Regarding the concerns with pork products, there were numerous scientific reports that pigs could be easily infected by many human and AI viruses and, therefore, could provide an environment favourable for viral replication and genetic re-assortment. The fast mutating nature of the AI virus, along with the possibility that the virus could re-combine with other subtypes, made pig and pig products a risk. With regard to wild birds, the representative indicated that consultations with experts had taken place and that the Indian authorities were of the view that wild birds could not be ignored with respect to AI. The US and EC concerns would be reported back to India's technical experts for review.

99. OIE clarified the recommendations of the OIE and how they should be put in practice. The listing of diseases such as HPAI and low pathogenic notifiable avian influenza (LPNAI) was first and foremost for disease reporting purposes and related to the question of transparency. Findings of AI in wild birds and of LPNAI should not lead to import bans. There needed to be a distinction drawn between reporting and the imposition of measures. OIE reiterated that there was no scientific basis for restrictions on pigs and pig products in relation to AI, whether it be high or low pathogenic strains, and this point was clear in the OIE terrestrial code. OIE was concerned that the imposition of measures that were not scientifically based worsened the risks for spread of disease because countries

were discouraged from proper reporting if they believed that the reporting would lead to unjustifiable measures. It was of utmost importance that countries report their diseases.

100. In March 2008, the European Communities indicated that India continued to ban certain EC animal products due to AI. Although India had earlier this year relaxed the ban for some products, it continued to ban many commodities. India imposed the ban in response to both high and low pathogenic strains of AI. The OIE, however, did not recommend trade bans if AI was present only in wild birds, or if low pathogenic strains were found. The obligation to notify cases of low pathogenic AI to the OIE should not be misused as a reason to impose trade restrictions, as the OIE had previously clarified in this Committee. Furthermore, heat-treated products could be safely traded regardless of the AI status of the exporting country. The European Communities considered also that India's ban on pig meat and pork products based on AI concerns was disproportionate to the risk. Although the European Communities had requested information regarding what needed to be done to regain free status, India had not provided any response. As indicated previously, the European Communities was of the view that India's measures were disproportionate to the risks and for some products were not based on scientific evidence. In addition, HPAI had been found in India , and the European Communities questioned whether Indian domestic products would be subject to the same treatment as imported goods.

101. The United States shared the concern that India's measures were introduced and maintained without sufficient scientific basis or a risk assessment. The measures were unjustifiably restrictive and too broad in geographic and commodity application. Bilateral exchanges had allowed progress on some areas, but not regarding the AI measures. Despite requests, the United States had not yet received copies of India's risk assessment. Furthermore, these emergency import prohibitions had been extended again (G/SPS/N/IND/46/Add.5), after having been in place for almost two years. The United States urged India to lift AI measures that were not based on science, and in particular to distinguish between high and low pathogenic strains, recognize disease-free zones, not apply measures to swine and pork products, and to recognize measures taken to inactivate the virus.

102. Australia shared the concerns of the European Communities and the United States, and urged India to base its measures on sound science and OIE standards.

103. Mali reported that since his country did not know how to do a risk assessment with regard to AI, it had closed its borders to poultry imports from countries which had the disease.

104. India noted that AI continued to spread, and that it had serious human health implications with hundreds of persons already affected. India had previously had an outbreak, and despite its efforts to eradicate the disease, new outbreaks had occurred. India viewed low and high pathogenic strains of AI with equal concern, regardless of whether in poultry or wild birds, and was not permitting imports from affected countries. Low pathogenic AI presented a high potential risk, as the science showed that the virus was constantly evolving and there was a possibility of low pathogenic AI mutating into a highly pathogenic strain. With respect to the OIE guidelines, India had voted against the resolution in the last annual session which proposed that low pathogenic AI was not a concern for international trade. India was not the only country taking such measures, and Egypt had apparently imposed similar requirements. India had recently reviewed and modified its measures on pathogen free eggs, and pet food, and agreed to provide information to the European Communities shortly. The concerns raised by other Members would be communicated to technical experts in capital. India assured all Members that it would abide by its WTO obligations.

105. The European Communities clarified that in case of Egypt, the measures were applied to very different commodities. Although both countries had measures related to AI, these could not be easily compared.

106. In June 2008, the European Communities reported that India continued to apply a ban on the imports of poultry, swine, and their products, from areas that had reported outbreaks of either low - or high-pathogenic AI in wild bird populations only. In addition, India restricted the importation of products also from areas where low pathogenic AI had been found, disregarding the OIE standards which assured the complete elimination of risks and allowed products to be safely traded. The ban on imports of pigs and pig meat was not justified according to the OIE, nor had India provided scientific justification for the ban. India's restrictions were disproportionate and the European Communities requested India to review its measures without delay.

107. Canada supported the EC arguments, noting that according to the OIE, pigs did not represent a threat for transmitting AI. Furthermore, India should recognize the principle of regionalization when applying a ban based on AI. Canada requested that India follow the OIE's standards and remove the import restrictions currently in place.

108. The United States supported the concerns raised, observing that India's measure had been introduced and maintained without scientific evidence or risk assessment. India's argument that low pathogenic AI had the potential to mutate into the highly pathogenic form, and that virus re-assortment could occur in swine, had been addressed by the OIE. The United States had requested a copy of India's risk assessment that supported its ban, but this had not been provided.

109. China supported the concerns raised and requested India to revisit its measure in order to comply with OIE recommendations.

110. India clarified that it did not allow the importation of poultry and pork products, including processed meats, from areas where outbreaks of AI had been reported. India reiterated that it was equally concerned about low and highly pathogenic AI, as well as with AI found in wild birds only. A number of scientific studies had shown the possibility of low pathogenic forms of AI mutating into highly pathogenic strains. A report from FAO had also shown that mutation was feasible. An official US web site asserted that low pathogenic forms of AI had the potential to mutate into HPAI. India remained concerned that the low pathogenic viruses also posed risks to human health. Regarding pigs, scientific evidence showed that pigs could host the virus and were known to be a mixing vessel for some diseases, hence they could infect humans with AI. As new scientific evidence evolved, India had lifted its bans on some products, such as eggs and pet food. Further reviews would be done in the future. India took note of Members' requests for copies of the risk assessment and for the recognition of regionalization, and those concerns would be conveyed to experts in the capital.

111. In October 2008, the European Communities acknowledged India's efforts to remove its import restrictions on processed pig meat. However, India continued to apply a ban on live animals and on a wide range of products of animal origin. This ban had been based on the risk of entry into India of several diseases, in particular AI. These restrictions did not conform to the OIE standards. India was also invited to acknowledge that heat-treated meat and meat products could be safely traded regardless of the AI status of the exporting country. Moreover, India had not responded to the request for providing scientific justification and its risk assessment on pig meat and pig meat products.

112. The United States expressed concerns regarding India's extension of its emergency measures prohibiting a wide range of products because of AI. These measures were not based on scientific evidence or on risk assessment. The United States renewed the request to India to provide a copy of their AI risk assessment. Finally, India was requested to modify its measure to address the concerns expressed by several Members.

113. In response to the US request, India proposed that a technical discussion between India and other technical experts be held. The United States invited India to bring its technical experts to the next meeting of the SPS Committee and again requested a copy of India's risk assessment. India

suggested that instead of waiting for the next meeting the experts could meet before then, perhaps through a video conference, which could allow a resolution before the next meeting. India reported that the import restriction of AI related products had been discussed in the OIE, in the SPS Committee, and in various bilateral meetings with countries including the European Communities and the United States. India had been reviewing the policy of AI and its trade implications every six months. This led to the removal of import restrictions on different processed pig products from AI-positive countries. India would continue to review its restrictions and keep only those which affected human and animal health. India suggested that the discussion should stay among experts.

114. The OIE stated that countries should notify the presence of AI in domestic and wild birds. However, notification of the early detection of AI in wild birds was requested for purposes of transparency and should not lead to trade restrictions. OIE urged OIE members to send their scientific evidence to OIE, to be considered when making necessary amendments to the standards established in the OIE codes.

115. In February 2009, the United States expressed disappointment that India continued to maintain its emergency measures prohibiting a wide range of products because of AI without scientific evidence or a risk assessment. Appropriate measures for AI did not include trade restrictions on swine or swine products, trade measures related to notifiable AI in wild birds, or prohibitions on heat-treated products. In addition, Members should distinguish between highly pathogenic and low pathogenic AI. The United States welcomed India's previous proposal for a technical level meeting to discuss the issue, and again urged India to present its risk assessment so that a technical discussion could be scheduled.

116. The European Communities welcomed the recent lifting by India of some AI-related restrictions, but supported the US concerns that the remaining restrictions were unjustified and went against the OIE Code, in particular the lack of distinction between outbreaks of highly pathogenic and low pathogenic AI.

117. India explained that since many countries reported AI, and because of the human health implications, it was natural that Members were extremely cautious to safeguard animal and human health. This was particularly true in India, since its poultry industry was largely family-run. Many Members had adopted AI measures, including import bans. India had banned imports of poultry and swine products from countries reporting both low and highly pathogenic AI, since one strain of the virus could mutate into the other. An FAO publication acknowledged that mutation to virulence had been demonstrated, and the USDA website also admitted this. At the OIE General Session, India had voted against the resolution stating that low pathogenic AI was not a trade concern. India believed that trade interests should not take precedence over human health concerns, but accepted that science was evolving and had provisions for reviewing its AI measures. As a result, trade restrictions on certain products from AI positive countries had been lifted. India had recently reviewed the restrictions on pig meat and found there was minimal risk, especially when processed. India had thus decided to lift restrictions on pig products and on processed poultry products. The reviews would continue. The representative of India had taken note of the US concerns, had had bilateral meetings with the United States and the European Communities, and would convey their concerns to his authorities.

118. OIE indicated that AI was a major challenge for trade in poultry products. The relevant standards were in place and the OIE did not receive many comments from OIE members; the standard seemed to be well accepted. Currently the OIE was looking at conditions for trade in pet food and various by-products such as feather meal. Members should review the AI standards and raise any concerns at the OIE. The representative of the OIE clarified that there were a number of publications on AI, some by the OIE, some by FAO, some joint. For international trade, the relevant standard was in the OIE Terrestrial Animal Health Code.

119. In June 2009, The European Communities appreciated the bilateral meetings with India but remained concerned that India's measures were not consistent with OIE standards. Despite having raised the concern previously, India continued to make no distinction between low and high pathogenic AI, and had still not shared its scientific justification for the measures. The European Communities regretted that India did not adhere to the principle of regionalization, and furthermore that India banned imports of live pigs citing AI fears but had no such ban on the domestic market. The European Communities called upon India to base its import requirements on the relevant international standards.

120. The United States shared the concern raised by the European Communities and noted that India prohibited the import of a large number of items, in disregard of the relevant OIE Chapter. The United States requested that the bans on swine be lifted and that scientific justification be provided for all measures. In addition, the United States requested India to provide a copy of its risk assessment for the measures relating to AI.

121. India stated that the ban on pork products was taken to prevent an outbreak of AI. The measures were based not only on OIE guidelines, but on relevant scientific literature. Technical experts re-evaluated the scientific information every six months, and now imports were banned only from those countries reporting H5 and H7 strains of low pathogenic AI. India was concerned that the low pathogenic virus could mutate into the high pathogenic virus, which had a greater impact on animal and human health. Trade concerns should not interfere with the protection of human and animal health. All restrictions regarding pork and poultry products except live pigs had been lifted from areas reporting AI, because the AI virus could mutate in the pigs, as both human and AI viruses had established stable virus lineages in pigs. India applied the same measures to domestic products as to imports. India thanked the European Communities for fruitful bilateral discussions on 22 June 2009, and expressed its commitment to dialogues with all interested Members.

122. OIE drew attention to the informal dispute resolution procedure of the OIE as a means to resolve technical differences relating to provisions of the Terrestrial Animal Health Code.

123. In October 2009, the European Communities recalled that India still fail to base its requirements on OIE standards, and still maintained a ban on live pigs, pig semen and products such as feathers for reasons of AI. Furthermore, India did not recognize the regionalization principle, applied strictly in the European Communities where affected zones were placed under strict biosecurity measures, and instead India required total country freedom from AI. Although India had announced unprocessed meat would no longer be blocked for reasons of AI, India's requirements stated that only heat-treated pig meat could be imported, a measure not in line with international standards. The European Communities requested India to provide scientific evidence justifying its strict measures; to bring its import requirements in line with international standards; and to recognize the regionalization principle as applied in the European Communities.

124. The United States stated that India's ban and AI import requirements were not in line with OIE standards. India continued to prohibit the import of pigs and of a wide range of avian species and avian products without a risk assessment that supported the measure. India had maintained an emergency measure in one form or another since 2002 and its emergency notifications since 2004 had essentially blocked all imports. Sufficient time had passed for India to complete an import risk assessment and to adopt OIE-consistent measures. The United States requested India to provide its risk assessment and to modify its measures to address the concerns expressed by a number of Members.

125. India stated that the notification issued on 28 August 2009 prohibited the import of poultry and poultry products and live pigs from countries reporting both highly pathogenic and low pathogenic AI. India's technical experts had observed that symptoms of highly pathogenic AI were

noticeable and the infection could be controlled, but low pathogenic AI might pass unnoticed and the control of the infection could become difficult. Additionally, there was no data available confirming that low pathogenic AI could not mutate into highly pathogenic AI. Imports were currently allowed based on the AI status of the exporting country. The Indian authorities had commissioned a lab-based study of domestic pigs to confirm the chances of genetic re-assortment of the virus in live pigs that could produce new influenza viruses. As notified, India permitted the import of poultry products from countries reporting AI subject to a conformity assessment. Comments received from trading partners on this notification were under examination.

126. OIE stated that there were some differences at a scientific and technical level in relation to this matter, and reminded Members of the OIE's informal mechanism to resolve differences at a scientific and technical level.

127. In March 2010, the United States stated that India was alone among the world's leading trading partners in imposing severe import requirements related to AI, that were not in line with those established by the OIE. India continued to maintain emergency measures prohibiting a wide range of pig and avian products. Furthermore, India had not provided timely emergency notifications to the WTO Secretariat, as it had extended its AI emergency measures on 28 August 2009, but not yet notified it. The United States had for several years repeatedly requested a copy of India's risk assessment, but this was never provided.

128. The European Union supported the US concerns regarding India's ban on import of a number of products and live animals that, according to the OIE, should not be restricted. The European Union highlighted the importance of the use of the SPS notification system by India. The European Union also repeatedly requested India's risk assessment for its AI measure, but had not obtained it. Moreover, India did not recognize the regionalization principle, as applied in the European Union whenever an outbreak of AI occurred.

129. OIE encouraged WTO Members to implement the OIE standards on AI, since they were based on science and had been democratically approved.

130. India reported that as notified, it imposed an import ban on live pigs, poultry and other poultry products from countries reporting either the H5 or H7 strains of AI. There was no import ban on live pigs, poultry or poultry products from countries reporting AI in wild birds, other than poultry. The ban was imposed on countries with both Low Pathogenic AI (LPAI) and High Pathogenic AI (HPAI), as the LPAI virus might mutate into HPAI virus. India conducted a detailed risk analysis for the importation of animal and animal products, by a committee of experts, based on the existing global situation of AI, available scientific literature and the OIE standards. The justification for imposing the ban on live pigs was due to the fact that pigs were known to act as mixing vessels for human, animal and other influenza viruses. The ban on pigs would be reviewed after the completion of some technical studies.

131. In June 2010, the European Union reiterated the concerns regarding India's restrictions due to AI and the lack of notification by India on the issue. India had announced via its website that it would review its import conditions related to AI every six months however, that information had not been notified to the WTO. The European Union recalled that on several occasions India had been requested to provide scientific justification for imposing import restrictions above the OIE standard on AI. During its May 2010 General Assembly, the OIE had confirmed that its AI standard was well supported by scientific evidence, and it had also been clarified that there was no risk related to trade in fresh meat with regard to low pathogenic AI. The European Union also requested India to recognize the regionalization principle of the SPS Agreement, which was strictly applied in the European Union when an outbreak of AI occurred. The European Union requested that India fulfil its transparency

obligations, and either bring import requirements fully in line with international standards, or share the scientific evidence invoked to justify its measures.

132. The United States supported the concerns raised by the European Union, stating that India stood alone with respect to the scope of its AI -related bans, which were not in line with OIE standards. The United States expressed disappointment that these bans continued as emergency measures, thereby prohibiting the imports of live pigs and a wide range of avian species and avian products without a risk assessment. The United States noted that, on numerous occasions, India had not provided a timely notification of its AI-related import restrictions. For example the last notification was on 31 March 2009, extending the ban for six months. However, the ban continued to be applied despite the lack of a new notification. The United States and the European Union had repeatedly asked India to provide its risk assessments to support the imposition of import requirements beyond OIE recommendations. The United States urged India to provide its risk assessment and modify its measures to address the concerns repeatedly expressed by several Members.

133. India replied that the situation had remained unchanged although, based on changed conditions, India had allowed some restrictions to be temporarily lifted. The Indian Department of Animal Husbandry had reviewed its sanitary conditions and removed AI related restrictions for the import of pork products (raw and processed pork). India reported that presently there was no ban on the import of pork products (raw and processed pork) from AI positive countries. However, the import of live pigs continued to be prohibited from AI -positive countries. Furthermore, the import of processed poultry and poultry meat products were allowed from AI positive countries subject to conformity assessment for both low and high pathogenic avian influenza (LPAI and HPAI). India cited scientific evidence that LPAI had the potential to mutate into HPAI, particularly in wild aquatic birds.

134. In October 2010, the United States indicated that India continued to maintain the AI bans as emergency measures, and prohibited the import of live pigs and a wide range of avian species and products without providing a scientific justification for exceeding the international standards. Despite repeated requests, India had not provided its risk assessment until the October 2010 SPS Committee meeting. Moreover, India had failed repeatedly to notify its AI related import restrictions in a timely manner. In March 2010, India had announced a new extension of its emergency measures, and also that products from countries reporting any notifiable AI in domesticated or wild birds would be banned. Those new measures had not been notified to the WTO.

135. The European Union shared the US concerns about the emergency measures taken by India and the lack of transparency. India had failed to provide an opportunity for WTO Members to comment before measures were put in place. India had not made public the outcome of the last review of its import conditions on AI, although it had reported to the SPS Committee that this took place every six months. The European Union called on India to share its risk assessment or other scientific justification for its import measures, and to recognise the principle of regionalization as foreseen under the SPS Agreement.

136. India recalled that it had continuously explained the reasons for its measures, and changes to these. At the last Committee meeting, India had reported on the lifting of the ban on imports of pork products, although imports of live pig was still prohibited from AI positive countries. Processed poultry and poultry meat products were allowed from AI positive countries subject to certain conformity assessment requirements, thereby facilitating trade while continuing to protect human and animal health. India remained concerned that LPAI had the potential to mutate into highly pathogenic strains. India noted that Article 10.4.1 of the OIE Terrestrial Animal Health Code prohibited trade in poultry and its products from LPAI positive countries. India had provided its risk assessment on AI directly to the United States, and was willing to share it with other Members upon request.

137. OIE expressed an interest in receiving India's risk assessment. The OIE representative stressed that the OIE standards did not justify trade restrictions on the basis of reports of LPAI in wild birds. AI was widespread in wild birds and the OIE requested that this be notified so as to provide valuable data, but did not recommend any trade restrictions on this basis.

138. In March 2011, the European Union indicated that the risk assessment provided by India did not provide scientific basis to India's AI restrictions. The European Union asked the OIE whether India's risk assessment provided grounds for changes to the existing OIE standards. The European Union also urged India to recognize the principle of regionalization, and bring its import requirements in line with international standards.

139. The United States stated that it was still reviewing India's risk assessment on AI. The United States would raise its scientific concerns with India bilaterally and would keep the Committee informed of its discussions with India, the European Union and the OIE.

140. OIE stated that the OIE did receive India's risk assessment, and that the OIE had subsequently sent a response requesting clarification on the nature of the document.

141. India indicated that he would follow up on the response sent by the OIE, and flagged the need to first discuss the risk assessment India had provided before proceeding further.

142. In June 2011, the European Union recalled that India had finally provided a risk assessment in October 2010, but observed that the risk analysis provided by India did not provide any additional scientific information that justified a deviation from the existing OIE standards on AI. The risk assessment was incomplete and lacked the necessary elements. Furthermore, the paper from India had not triggered any change to the existing OIE standard during the latest OIE General Session in May 2011, and the existing standards remained the benchmark against which to measure restrictions. India was therefore requested to bring its import requirements fully in line with international standards and to recognize the concept of regionalization, as applied in the European Union, in implementing its measure.

143. The United States supported the concerns of the European Union, and agreed that India's risk assessment was not consistent with international standards for conducting a risk analysis, nor did it contain sufficient scientific evidence to support India's ban. India's restrictions related to AI did not conform to OIE standards and were not scientifically justified. Repeated attempts to make progress with India at a technical level had reached an impasse. The United States proposed to prepare a list of concerns regarding the assessment, together with the European Union and the OIE, and asked India to address these concerns no later than 15 August 2011. India should also lift its current restrictions while the United States and India worked together on a valid science-based assessment. If the issues could not be resolved through collaboration, the United States would petition the OIE to help mediate the issue and to provide expertise to ensure that the matter was resolved in a manner consistent with international standards and India's WTO obligations. The United States hoped to report a positive resolution to the next Committee meeting in October 2011.

144. Australia shared the concerns of the European Union and the United States, and encouraged all Members to take a measured approach to instances of notifiable AI and not to implement unnecessarily trade restrictive measures in relation to this disease.

145. OIE stated that they had received a letter from India clarifying that the provision of the risk assessment document to the OIE had been for information purposes. The OIE would be happy to review India's risk assessment if so requested, as well as to initiate a dispute mediation process if both parties agreed.

146. India clarified that during the October 2010 Committee meeting, they had provided their risk assessment supporting the ban on imports of poultry and poultry products from AI positive countries with the United States and the European Union, as requested. This was not the final risk assessment document, which would take some time. India welcomed inputs on the information it shared, and was examining a response from the European Union. The EU-India joint working group would also discuss this issue on 17 July 2011. India encouraged trading partners to address this issue in bilateral discussions.

147. In October 2011, the United States recalled that it had raised this concern on numerous occasions, as bilateral efforts to resolve the matter had not succeeded, and on 19 July 2011, India had published an extension of the restrictions. The United States did not consider that the restrictions were justified by the risk assessment provided by India, and had requested the removal of the restrictions or modification of the risk assessment by 19 August 2011, but no response had been received. The United States and European Union had thus jointly requested the OIE to provide an expert opinion of the risk assessment document provided by India. The OIE had provided a copy of its expert opinion to India, the European Commission and the United States on 4 October 2011, and the United States requested that the OIE be given the floor to summarize its findings.

148. The European Union also indicated that, as it had already stated earlier, the risk analysis provided by India was not complete and did not evaluate the likelihood of entry, establishment or spread of the disease, and the associated potential biological and economic consequences, nor had the document led to any changes to the OIE standards. The European Union urged India to bring its import requirements fully into line with the relevant international standards, including through the recognition of regionalization.

149. After offering the floor to other Members, the Chairman gave the floor to the OIE. However, India requested, as a point of order, clarification of the procedures regarding participation of observer organizations in the discussion of specific trade concerns. The Secretariat noted that according to the rules of procedure of the Committee, observers could be given the floor under any agenda item, and that it was the practice in the Committee to give international organizations the floor regarding specific trade concerns that related to international standards.

150. OIE indicated that, at the request of the European Union and the United States, it had asked two experts to review India's risk assessment. The experts had concluded that the scope and purpose of the risk assessment was not clearly defined, and that the assessment was poorly supported by references to the relevant scientific literature. The experts had concluded that the document did not meet the definition of an import risk analysis as set out in Chapter 2.1 of the OIE Terrestrial Animal Health Code.

151. India clarified that it had not formally provided any scientific risk assessment to the OIE. In October 2010, India had provided a summary report on an informal basis to the European Union and the United States. India clarified that the document had also been provided to the OIE on an informal basis, and that it was a summary document, not a full risk assessment. India considered that it was inappropriate for the OIE to comment on an incomplete document and also questioned whether the OIE had a mandate to validate a risk analysis of a Member. Furthermore, in a letter dated September 2011, India had requested the OIE to review its guidelines in order to prevent the spread of important diseases to developing countries that did not have the resources to contain and control such diseases. India has also detailed the justifications for its restrictions varying from the OIE guidelines in that letter, and was awaiting a reply from the OIE.

152. The United States observed that the OIE's comments confirmed that India's measures were not in accordance with the international standards, nor were they supported by a risk assessment. If

this was not a final risk assessment, India should immediately remove the trade restrictions that had been maintained for nearly five years without sufficient scientific support.

153. OIE indicated that at the SPS Committee meeting in October 2010, they had received from India a copy of the same risk analysis document which they had been requested to review by the European Union and the United States.

154. Chile, Argentina and Peru noted that the expert opinion provided by the OIE was different than information provided in the past regarding how particular measures compared with the relevant international standards, and suggested that the Committee should in future consider whether it was the appropriate role of the international standard-setting bodies to validate the risk analysis relied upon by a Member.

155. The European Union recalled that it had previously questioned whether India's measures were based on a valid risk assessment, and stressed that the key question now was whether India would continue to maintain these measures, or bring them into line with the OIE standards.

156. As a subsequent point of order, India questioned whether the OIE should have been permitted to take the floor on this issue as per the procedures and provisions of the Committee and Agreement. Under Annex 3 of WT/L/161, the purpose of granting observer status was to enable an organization to follow discussions on matters of direct interest to them. The agreement between the WTO and the OIE (WT/L/272) also indicated that the OIE would be invited to participate in deliberations on agenda items on which the OIE had an interest. The OIE was a highly reputed organization recognized for its standard-setting for animal health and zoonosis, however India did not consider that it was appropriate for an observer to judge a Member’s rights and obligations. India considered that other Members had the right to comment on each other's measures and policies, but that this right was not extended to observers and that allowing observers to express judgements on Members' policies had serious systematic consequences. Under Article 13 of the SPS Agreement, a Member was fully responsible for the observation of all of the obligations set out therein, and in India's view the OIE could not be considered to have an interest in how India was carrying out its risk assessment. India stated that allowing OIE to comment even before India was given an opportunity to speak was a clear case of inconsistency with due procedures as laid down in WT/L/161. India thus requested that what it considered to be the unauthorized intervention of the OIE not be reflected in the report of the Committee meeting.

157. The United States recalled that on numerous occasions since this issue had been raised the OIE had provided clarification when a Member has claimed that its measure was consistent with the international standards for avian influenza. India had indicated for many years that its measure was justified by a risk assessment, which was finally provided in October 2010. It was only in June 2011 that India indicated that this was a draft risk assessment, and at that time India had invited comments on its document. It was in this light that the United States and European Union had requested the OIE to review the document, and the assessment of the OIE should be reflected in the report of the meeting. The United States welcomed the suggestion that the Committee consider the issue of the role of observers, and in particular of the Three Sister organizations, in the work of the Committee.

158. The European Union indicated that it understood the concern that the international organizations should not interpret the rights and obligations of Members under the SPS Agreement. These three organizations had a specific role to play in the Committee as the developers of the reference standards, hence the current practice in the Committee to rely on the advice and information provided by these organizations with regard to their standards and guidelines. The question that had been posed to the OIE in this case was whether the import risk assessment conformed to the OIE guidelines for such an assessment. The European Union did not understand the statement from the OIE to be an interpretation of the rights and obligations of any Member under the SPS Agreement.

159. The Chairman recalled that Rule 36 of the Rules of Procedure of the SPS Committee (G/L/170) indicated that a summary report of each meeting would be prepared by the Secretariat. As there was no consensus in the Committee to not include the statement of the OIE as requested by India, the Chairman ruled that the summary report should clearly reflect the debate on this matter. In accordance with Rule 36, any delegation could request, within 10 days of the close of the meeting, the opportunity to verify those portions of the draft report containing their statements prior to the issuance of the summary report.

INDONESIA - CONCERNS RELATED TO MEASURES MAINTAINED BY INDONESIA

Animal Health

305. Import restrictions on beef and recognition of the principle of regionalization

Raised by:	Brazil
Supported by:	
Dates raised:	October 2010 (G/SPS/R/61, paras. 15-16), March 2011 (G/SPS/R/62, paras 41-42), October 2011 (G/SPS/R/64/Add.1, paras 1-2)
Relevant document(s):	Indonesia's Regulation 82/200, G/SPS/N/IDN/40 and 43
Solution:	
Status:	Not reported
Date reported as resolved:	

160. In October 2010, Brazil expressed concerns over Indonesia's Regulation 82/200, which did not seem to comply with Article 6 of the SPS Agreement. Indonesia had notified revisions to the law which would have permitted recognition of disease-free regions, and the authorities had engaged in bilateral discussions regarding imports of meat from Brazil. In August 2010, however, the Indonesian courts had annulled that aspect of the legislation. Brazil expected the Indonesian authorities to take all necessary measures to revise the law, and to notify this to the WTO. Brazil already had OIE recognition of its FMD-free status.

161. Indonesia observed that the country had about 7,000 islands, and it had taken Indonesia almost 100 years to eradicate FMD. The Government had sought to develop regulations that were consistent with international standards, but these had been challenged in the constitutional court. Imports from regions where FMD had not been completely eradicated were therefore prohibited.

162. In March 2011, Brazil restated its concern over Indonesia's Regulation 82/200. On 18 November 2010, Indonesia had submitted a notification (G/SPS/N/IDN/43) which did not recognize the principle of regionalization and forbade the import of poultry meat.

163. Indonesia recalled that it had sought to develop regulations that were consistent with international standards, but these had been challenged in the constitutional court. Imports from regions where FMD had not been completely eradicated were therefore prohibited.

164. In October 2011, Brazil recalled that it had raised this concern on numerous occasions, in the Committee and during bilateral meetings. Brazil requested that Indonesia take the necessary measures to guarantee the recognition of the principle of regionalization. In April 2009 Indonesia had notified to the WTO (G/SPS/N/IDN/40) the Law n°18/2009 which, if enforced, would have allowed recognition of Food-and-Mouth Disease-Free Zones. In August 2010 however, Indonesian courts had cancelled that aspect of the legislation, and on 18 November 2010, Indonesia had submitted a notification (G/SPS/N/IDN/43) which did not recognize the principle of regionalization and which

prohibited imports of meat from FMD-free zones. Brazil noted that the regulation had come into force as Decree 50/Permentan/OT.140/9/2011, and that the final text did not modify the import system for meats. Hence despite OIE standards, Indonesia still did not recognize the regionalization principle and prohibited the importation of meat from FMD Free Zones. Brazil asked that Indonesia take all necessary measures to guarantee the revision of Decree 50/Permentan/OT.140/9/2011, in order to comply with multilateral rules.

165. Indonesia replied that the issue had been discussed extensively during bilateral meetings. Indonesia noted that in the Law n° 18/2009, the import regulations on animal and animal products had been amended from zone-based to country-based to protect Indonesia from threats posed by countries which had FMD. With regards to the sanitary requirements for the import of live cattle, beef and its by-products, imports could only originate from a country with a disease-free status. Indonesia noted that it was considering a new revision of its import regulations.

Other concerns

286. Import restrictions on poultry meat

Raised by:	Brazil
Supported by:	
Dates raised:	October 2009 (G/SPS/R/56, paras. 14-15), October 2011 (G/SPS/R/64, paras 79-80)
Relevant document(s):	Raised orally. Indonesian Decree 50/Permentan/OT.140/9/2011
Solution:	
Status:	Not reported
Date reported as resolved:	

166. In October 2009, Brazil raised concerns about restrictions on Brazilian poultry meat due to Indonesian legislation that was not in accordance with international standards. Although Indonesia claimed to accept the principle of regionalization, it had not presented any sanitary reasons for the restrictions on Brazilian poultry meat. Throughout 2009, Brazil and Indonesia had consulted on this trade barrier and Brazil had provided information showing that its poultry meat and by products complied with the relevant international standards and even with Indonesia's regulations. Brazil requested the sanitary justification for the restrictions, or that the restrictions be lifted.

167. Indonesia expressed his authorities' willingness to have bilateral meetings with Brazil to find solutions on the issue.

168. In October 2011, Brazil observed that it fulfilled all OIE requirements related to poultry meat and exported poultry products to more than 170 countries, but the Indonesian market remained closed. In October 2009, Brazil had questioned the scientific basis of Indonesia's prohibition, but despite several bilateral meetings, the Indonesian market remained closed to Brazilian chicken, duck and turkey meat. Regarding chicken meat, Indonesia had recently issued Decree 50/Permentan/OT.140/9/2011, which prohibited, without any scientific justification, imports of whole chicken and mechanically separated chicken meat products. In relation to duck and turkey meat, although Indonesia had agreed to send a mission to Brazil to approve establishments, it had not responded to repeated requests from Brazil to set a date for the mission.

169. Indonesia replied that the issue had been discussed extensively during the meeting of the bilateral Agriculture Working Group, and during the Brazil-Indonesia Joint Commission in

October 2011. During the consultations, Indonesia had informed Brazil that it needed more time to ensure internal coordination before sending the inspection mission to Brazil, and that the Indonesian Ministry of Agriculture would conduct its technical research in 2012.

JAPAN - CONCERNS RELATED TO MEASURES MAINTAINED BY JAPAN

Food safety

283. Pesticide maximum residue levels (MRLs)

Raised by:	Brazil
Supported by:	China, Ecuador
Dates raised:	June 2009 (G/SPS/R/55, paras. 36-38), October 2009 (G/SPS/R/56, paras. 50-52), October 2010 (G/SPS/R/61, paras. 37-38), June 2011 (G/SPS/R/63, paras. 168-170), October 2011 (G/SPS/R/64, paras. 55-56)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

170. In June 2009, Brazil noted that Japan imposed stricter pesticide residue limits than Codex, because it required industry-wide testing for one MRL violation and a 100 per cent test-and-hold policy in case a second violation involving the same pesticide and commodity took place within one year. Brazil had difficulty in exporting green coffee beans to Japan, as Japan's MRL was 30 times lower than that of Codex. In a bilateral meeting, Japan had stated that the revision of these MRLs would take place within two years. Brazil had requested an interim transitional mechanism as trade in coffee was worth over US$300 million per year. Brazil exported coffee to over 100 countries and requested Japan to modify their procedures in line with international standards, or provide a transitional period while the Japanese authorities decided on the revision of the requirement without any negative impact on Brazilian coffee exports.

171. China supported Brazil's concern, and requested that Japan's temporary standards be based on scientific justification and a risk analysis. These measures had been applied for a period of three years, adversely affecting Chinese food exports to Japan. Furthermore, Japan's uniform standard of 0.01 ppm for several pesticides was arbitrary and without scientific justification. China requested that Japan brings its requirements into line with the relevant international standards. China's exporters indicated that imported products were subjected to a greater number of random inspections. Furthermore, inspections were carried out only on certain imported products, even though the same pesticides were also used domestically in Japan. China urged Japan to apply its measures uniformly without any discrimination.

172. Japan clarified that the MRLs were based on scientific assessment, and Codex and other international standards were taken into account when enforcing the measures. Japan had notified the WTO before establishing these MRLs and had received comments. The SPS Agreement was taken into consideration, and the measures were applied equally to imported and domestic products. The frequency of inspections was increased based on findings of violations. Japan confirmed that the Codex MRLs would be the basis of the current revision, which would occur by December at the earliest. Japan expressed its commitment to continuing bilateral discussions with Brazil.

173. In October 2009, China recalled that after the implementation of Japan's positive list system for chemical residues, China and many other Members had expressed concerns regarding the issue of "uniform standards". Japan had indicated that the standard would be revised on the basis of scientific evaluations and MRLs would be established for more chemical residues. In recent years, almost all notices that China received from Japan regarding products that exceeded pesticide limits were caused by the "uniform standards". These had severely affected China's trade with Japan. Also, after the implementation of Japan's positive list system, a series of regulatory measures such as intensified inspection, quarantine and supervision, had been undertaken. China urged Japan to develop science-based residue limits for the items of concern as soon as possible, to alleviate unnecessary restrictions to international trade.

174. Ecuador supported China's concern regarding MRLs applied by Japan. Ecuador's cacao exports had faced difficulties of market access, and although various meetings had taken place, no solution had been found. Ecuador requested Japan to modify its MRLs in accordance with international standards.

175. Japan stated that the uniform standard was based on the evaluations by the FAO/WHO Joint Expert Committee on Food Additives (JECFA) and/or on the tolerance exposure amounts that the US Food and Drug Administration (FDA) adopted for food additives.

176. In October 2010, Ecuador again raised concerns over Japan's 2006 Food Health Act establishing new MRLs for food products of plant and animal origin, intended for human consumption. Products with concentrations of residues above those limits could not be imported, processed, used or stored for sale in Japan. The Food Health Act established a list of 158 chemicals and their corresponding MRLs for food, and substances. The establishment of such stringent limits had meant that shipments of Ecuadorian cocoa in which 24D was present had been rejected by Japan, causing significant costs to Ecuador cocoa exporters and producers. Despite constructive bilateral discussions, no solution had been found, and Ecuador requested more information on the process used by Japan to set its MRLs measures and asked for swift notification by Japan of anomalies or lack of compliance with cocoa exports regulations.

177. Japan stated that based on the Japanese Positive List System, the Ministry of Health, Labour and Welfare (MHLW) established individual MRLs in food commodities through safety evaluations and residue studies. Japan adopted Codex MRLs as Japanese MRLs where the necessary requirements were met. If Ecuador wanted Japan to establish MRLs for specific pesticides, an application had to be submitted to the Ministry of Health. In addition, Japan would consider relevant applications for modifications and revise current MRLs as appropriate.

178. In June 2011, Ecuador expressed concern about Japan's decision to apply MRLs to additives based on a positive list system. Similar concerns had been raised by Paraguay (G/SPS/GEN/1091), and Ecuador was hopeful that a solution could be found. The current approach was particularly damaging to the livelihood of Ecuador's small producers and exporters of cocoa.

179. Brazil expressed their support of the interventions by Ecuador and Paraguay.

180. Japan observed that they had not previously received information from Ecuador regarding this issue, but were keen to work with Ecuador on this issue bilaterally.

181. In October 2011, Ecuador recalled that in June 2005, Japan had notified its intention to apply a positive list system for the adoption of MRLs, however, the document annexed to the notification did not indicate that the MRLs would be 0.01 ppm. The result was that while 12 companies used to export cacao to Japan, now only five could do so. In 2006, sales to Japan were US$20.7 million, and accounted for 12.4 million metric tons. However, between 2007 and 2010 both the volume and value

of exports dropped by more than 60 per cent. Since the issue was first raised, many Members had repeatedly asked Japan to provide its risk analysis to scientifically justify the application of the MRLs. Ecuador urged Japan to consider the EU methodology of analyzing residues in the kernel and not on the husk, and to accept the International Cocoa Organization (ICCO) standards. Paraguay shared the views of Ecuador and emphasized that the MRLs must be science-based.

182. Japan observed that it had repeatedly requested the Government of Ecuador to file an application with the relevant Japanese authorities to revise the MRLs, providing sufficient data. The current 0.01 ppm limit was the same used by the European Union. Before the MRL was set, Japan had notified the WTO in accordance with the SPS Agreement.

307. Prohibition of certain food additives

Raised by:	India
Supported by:	European Union
Dates raised:	October 2010 (G/SPS/R/61, paras. 20-21), October 2011 (G/SPS/R/64, paras 61-62)
Relevant document(s):	Raised orally. G/SPS/N/JPN/255.
Solution:	
Status:	Not reported
Date reported as resolved:	

183. In October 2010, India expressed concerns over Japan's proposed withdrawal of 80 food additives in May 2011, which had been notified to the WTO in July (G/SPS/N/JPN/255). The decision to prohibit the use of these additives was apparently based on a survey and the analysis of public comments. The survey considered the sale, manufacturing, import, processing, use, storage and display of such substances in Japan's market. India was concerned that the requirements of Article 2 of the SPS Agreement had not been fully considered, as the survey did not provide any indications that the additives were hazardous to human health, nor had a risk assessment been undertaken by the Japanese authorities, and international standards had not been followed. Of the 80 food additives to be withdrawn, at least 33 substances were allowed in other countries, including Korea and the United States, in line with Codex or country specific standards. India urged Japan to follow the provisions of the SPS Agreement before deciding to prohibit the use of the food additives, and suggested that Codex could be requested to examine the risks associated with those food additives.

184. Japan recalled that according to the revision of the Japanese Food Sanitation Law in 1995, natural additives became subject to prior approval by the Ministry of Health, Labour and Welfare. Therefore, whether natural or synthetic, no additive could be used unless it was approved by the Ministry. The concept of "existing food additives" was established in 1995 and referred to substances that were derived from natural origin and that had been used before 1995 without prior approval. However, their safety had not been verified or examined based on a safety assessment, and Japan would be systematically verifying the safety of existing food additives. Japan considered that it was justifiable to eliminate those substances for which there was no actual use or distribution in Japan, and hence not lead to any restriction of trade. Japan had previously directly contacted embassies and trade groups in response to requests received on this issue. In 2009, Japan had carried out a survey on 125 substances and, based on the survey results, had prohibited these 80 additives since they were no longer in use in the domestic market. Should Members nevertheless have further comments on this notification, these should be submitted by 17 November 2010 at the latest.

185. In March 2011, India recalled its concerns about 31 of the 80 food additives that Japan had notified as no longer being distributed in Japan (G/SPS/N/JPN/255). In March 2011, the original list had been reduced to 50, however, India still had concerns regarding 18 food additives to be withdrawn from the Japanese market on 18 May 2011.

186. The European Union also requested clarification on a number of food additives planned to be withdrawn and which, according to the webpage of the Japanese Ministry of Health, still remained on the list. The European Union would continue its bilateral discussions with Japan to address its outstanding concerns.

187. Japan stated that safety verification of existing food additives were being carried, as some were used without a risk assessment. Japan had notified the WTO in July 2010 (G/SPS/N/JPN/255) and had received several comments. In October 2010 Japan had asked India to submit evidence that certain substances were in use in Japan so as to change the status of those food additives. However, India`s comments had been received after the comment period had lapsed. Japan would publish a list of 55 substances for withdrawal from the Japanese market in the official Gazette, in May 2011.

188. In June 2011, India remained concerned that food additives were being prohibited on the basis that they were not in use in Japan, without a risk assessment. Some of the food additives that were restricted in Japan were in use in other countries, and such a measure to prohibit these additives without any scientific basis violated the SPS Agreement. India requested that Japan provide a scientific justification for this decision, and that it permit the use of these additives whilst the issue was under review.

189. Japan stated that a number of substances on the list of existing food additives had been used without a scientifically-based safety assessment. Since 1996, Japan had been systematically carrying out safety verifications of the listed substances to establish requirements based on science. There was no indication that some of the food additives on the list were actually in use in the Japanese market, and Japan intended to delist these substances. However, this was to facilitate the safety verification process, not to restrict international trade. As of 6 May 2011, 55 substances had been withdrawn from the list of existing food additives. Japan encouraged India to provide information documenting the use of these substances in the Japanese market before Japan finalized the revision process. Many Members had commented on G/SPS/N/JPN/255 at the October 2010 meeting, and Japan responded to India's comments in November 2010. However, India had submitted its comments four months after the conclusion of the notification period, so Japan would use this information in the future.

190. In October 2011, India recalled that Japan had stated at the last Committee meeting that it was willing to update the list of food additives, if India provided information that these items were actually in use in the Japanese market. In this regard, India was working to get the necessary information and provide the relevant documents to Japan as soon as possible. In the meantime, India urged Japan to temporarily permit the use of these additives while Japan conducted the risk assessments.

191. Japan reiterated that as of 6 May 2011, 55 substances had been withdrawn from the list of existing food additives, as the list of food additives was up-dated by removing those that were no longer in use in the Japanese market. However, in accordance with the Food and Sanitation Act, if an application were filed that provided relevant evidence that any of the withdrawn substances were still in circulation in the Japanese market, the authorities would update the list.

321. Japan's MRLs applied to sesame

Raised by:	Paraguay
Supported by:	
Dates raised:	June 2011 (G/SPS/R/63, para. 30)
Relevant document(s):	G/SPS/GEN/1091
Solution:	
Status:	Not reported
Date reported as resolved:	

192. In June 2011, Paraguay expressed concerns that Japan's MRLs for pesticides in sesame were more restrictive than those applied to other similar products, and had a negative impact on trade (G/SPS/GEN/1091). The application of an across-the-board uniform limit was inconsistent with the principles of the SPS Agreement.

193. Japan observed that there were no Codex MRLs for sesame. Japan applied a uniform limit of 0.01 ppm as this was unlikely to damage human health based on the concept of acceptable exposure that had been scientifically assessed by JEFCA. These uniform limits had been notified to the WTO. The European Union also imposed the same uniform limit. Japan could establish MRLs for compound/commodity combinations which were not registered in its legislation, in response to exporting country applications for import tolerances. Japan invited Paraguay to file an application for an import tolerance with the Ministry of Health Labour and Welfare, and to provide the necessary data for assessment. Paraguay should be aware, however, that the MRL set by the European Union for the compound in sesame was 0.05 ppm.

MALAYSIA - CONCERNS RELATED TO MEASURES MAINTAINED BY MALAYSIA

Animal Health

323. Malaysia's import restrictions on pork and pork products

Raised by:	European Union
Supported by:	Canada, United States
Dates raised:	October 2011 (G/SPS/R/64, paras. 32-35)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

194. In October 2011, the European Union indicated that it had concerns with Malaysia's import restrictions on pork and pork products, imposed 1 July 2011. In bilateral discussions, however, the European Union had received guarantees that the restrictions would shortly be lifted. The European Union would continue to work closely with Malaysia to ensure that EU exports could resume in line with WTO obligations.

195. Canada shared the EU concerns as its pork and pork product exports had also been banned since 1 July 2011 without notification. Malaysia had not advised Canada about the revision to its import requirements or the ban, and Canada had received conflicting information from Malaysia with

respect to import requirements for pork. Canada encouraged Malaysia to base import conditions on science, and consider a systems approval approach for pork imports, rather than a plant-by-plant approval.

196. The United States also expressed concerns that the new import requirements had been imposed without valid scientific evidence. The United States had been told in June 2011 that it could continue to export pork and pork products if it submitted an establishment questionnaire by 1 July 2011; however, imports had been stopped. The United States would continue to work with Malaysia to facilitate an audit of US food safety systems, but expected a successful audit that would allow all federally inspected pork establishments to be eligible to export to Malaysia.

197. Malaysia observed that bilateral consultations on this issue were on-going with the affected Members and it hoped to resolve the issue as soon as possible.

MEXICO - CONCERNS RELATED TO MEASURES MAINTAINED BY MEXICO

Animal Health

317. Mexico's BSE measures

Raised by:	Canada
Supported by:	European Union
Dates raised:	June 2011 (G/SPS/R/63, para. 14)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

198. In June 2011, Canada recalled that since 2003, Canada had requested that Mexico accept beef imports from cows over 30 months old. In 2007, the OIE recognized Canada as a "controlled" BSE-risk country and the status has since been reconfirmed every year. In 2008, Mexico too was recognized as a "controlled" BSE-risk country. Canada had engaged with Mexico at all levels concerning this issue. On 12 June, Mexico shared a technical report which highlighted the basis of Mexico's current decision, however Canada did not consider that this report provided scientific evidence to support Mexico's measure. Canada requested Mexico's participation in a high-level technical meeting to further discuss scientific evidence on BSE-related measures.

199. The European Union shared the concerns raised by Canada as Mexico also continued to impose BSE-related import restrictions on beef and beef products from EU member States with controlled risk status. As Mexico allowed imports of beef and beef-related products from other similarly categorized countries, these restrictions appeared to be discriminatory. The United States also urged Mexico to base its BSE import requirements on science, consistent with the OIE standards for "controlled" risk countries, as a zero risk standard was both unworkable and inappropriate.

200. Mexico indicated that it had provided a technical report to Canada on 10 June 2011, which provided details on the Creutzfeldt-Jakob disease-related risks of eating meat from cattle over 30 months old. The technical report referred to information that had been provided by Canada in a report dated 23 July 2003. The Canadian report highlighted that in spite of the removal of high-risk tissue from BSE-infected animals, there still remained some risk to the consumer. The risk analysis provided by Canada had been based on cattle that were less than 30 months old, and Mexico had requested a risk analysis on animals older than 30 months. However, Canadians apparently did not

consume meat from cattle older than 30 months, as was stated in a Canadian Medical Association Journal article dated 9 November 2010, presented at the March Committee meeting. Mexico's technical report highlighted that some countries were found to have a higher incidence of Creutzfeldt-Jakob disease due to the consumption of meat that had been infected with BSE, and Canada was ranked number eight in the occurrence of the Creutzfeldt-Jakob disease. According to a Canadian Ministry of Health meeting on 26 August 2010, Canada had not at that time established the origin of the disease. Mexico stressed that its risk analysis did not require the complete absence of BSE, and Mexico was willing to continue to work on this issue bilaterally with Canada.

PHILIPPINES - CONCERNS RELATED TO MEASURES MAINTAINED BY PHILIPPINES

Food safety

320. Restrictions on imported fresh meat

Raised by:	United States
Supported by:	Canada, European Union
Dates raised:	June 2011 (G/SPS/R/63, para. 25), October 2011 (G/SPS/R/64, paras 74-76)
Relevant document(s):	Raised orally. Administrative Order Number 22 (AO 22)
Solution:	
Status:	Not reported
Date reported as resolved:	

201. In June 2011, the United States stated that Administrative Order Number 22 (AO 22) of the Philippines, and its draft successor, had disproportionately affected trade from other countries. It was not clear why the prescribed cold chain requirement for frozen, chilled meat and chilled meat products, which are primarily imported, was not being equally applied to fresh meat. The traceability, packaging and labeling requirements in both AO 22 and the new draft Administrative Order imposed additional burdens on the marketing and sale of frozen meat and meat products in the Philippines, yet there was apparently no risk assessment to support the adoption of these measures. There seemed to be no scientific justification for this requirement, which appeared to discriminate against imports, and which undermined the food safety advantages of frozen meat. The failure to follow any standard international practice created the impression that these measures were simply to restrict trade. The United States requested a copy of the Philippines' risk assessment and the suspension of AO 22 and its draft successor, as well its notification to the WTO.

202. Canada expressed its concern that AO 22, as well as its draft replacement, only addressed the safety of frozen chilled meat and provided no scientific rationale for imposing different food safety measures than for fresh meat. These measures seemed to disproportionately affect imported meat. The measure had been implemented without notification to the WTO, and given the lack of a scientific rationale, Canada requested that AO 22 be suspended until the replacement measures were amended to include comparable food safety requirements for fresh meat.

203. The European Union supported the concerns of the United States and observed that the revision of AO 22 was currently going through a domestic consultation process and requested clarification as to why the requirements for warm meat, which is mostly locally produced, were lower than those for frozen chilled meat, which is mostly imported. The new legislation issued in 2010 was not notified to the WTO, no supporting risk assessment had been provided, and there was no

opportunity for comments to be taken into account. The European Union, therefore, requested the suspension of AO 22.

204. The Philippines stated that the rules and regulations for the handling of frozen and chilled meat and meat products were contained in AO 22, which was a post-border measure aimed at improving the country's meat hygiene and meat safety system up to the point of retail sale. AO 22 was to be implemented by local government units, with assistance from the national meat inspection service. AO 22 did not impose additional requirements and did not modify the provisions related to pre-border measures for the export of meat and meat products to the Philippines. The basis for this measure was the USDA code for frozen meat, which required that thawing be done under chilled conditions and a cold chain be maintained until consumed. This was recommended also by the Codex Code of Practice for the Processing and Handling of Quick Frozen Foods (CAC/RCP 8-1976) and the US Food and Drug Administration (FDA), and so the Philippines had adopted the best standards. The Philippines assumed that the United States and other trading partners had conducted a risk assessment for their codes of practice and so there was no need for the Philippines to do its own risk assessment when imposing the same measures. Neither were the Philippines obliged to notify a measure based on the Codex Code of Practice. AO 22 was not discriminatory as it applied to both imported and locally produced meat. However, AO 22 did not apply to freshly slaughtered meat, which was a different product. There were no Codex standards for warm meat products and the Philippines acknowledged that a risk assessment for freshly slaughtered meat was required. This would be carried out, and guidelines developed, based on available studies and data provided by trading partners.

205. The United States noted that the measures, which the Philippines said were based in part on a USDA risk assessment, needed to be proportional to the risks identified in that risk assessment. The management tools and decisions by the Philippines went far beyond what was identified in the risk assessment, and the United States requested that the Philippines provide additional scientific evidence to justify its measures.

206. In October 2011, the United States remained concern that Administrative Order Number 22 (AO 22) of the Philippines had disproportionately affected trade from other countries. The United States requested the suspension of AO 22 as well its notification to the WTO.

207. Canada and the European Union shared the concerns of the United States. Canada noted its current work with the Philippine officials to provide scientific data and analysis to support a risk assessment on the handling practices of fresh meat in the Philippines, and requested that AO 22 be suspended until the replacement measures were amended to include food safety requirements for fresh meat comparable to those established for frozen chilled meat. The European Union noted that no supporting risk assessment had been provided by the Philippines, and since the measure had not been notified to the WTO there was no opportunity for comments from trading partners to be taken into account.

208. The Philippines responded that AO 22 was a post-border measure on the handling of frozen and chilled meat and meat products that aimed at improving the country's meat hygiene and safety system up to the point of retail sale. AO 22 was based on the USDA code for frozen meat and the Codex Code of Practice for the Processing and Handling of Quick Frozen. The Philippines noted the constructive discussion they recently had with the United States and looked forward to resolve this issue quickly.

SOUTH AFRICA - CONCERNS RELATED TO MEASURES MAINTAINED BY SOUTH AFRICA

Animal Health

287. Import restrictions on fresh pork meat and beef

Raised by:	Brazil
Supported by:	
Dates raised:	October 2009 (G/SPS/R/56, paras. 16-17), October 2011 (G/SPS/R/64, paras 94-95)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

209. In October 2009, Brazil reported that since 2006, Brazil had been exchanging information with South African authorities regarding restrictions on pork and beef products from Brazil. Three rounds of questions had been asked, and three sanitary negotiating missions had been sent to South Africa. South Africa had not provided any final results of its risk analysis on beef and pork. Brazil requested more conclusive information on the risk analysis processes that had been carried out, since Brazil fulfilled the requirements established by the OIE.

210. South Africa confirmed that a number of interactions had taken place with regards to the import of pork and beef into South Africa, most recently in July 2009. However, there were still some issues that required clarification with regards to the import of pork. The import of matured de-boned beef should be approved pending agreement on certificates.

211. In October 2011, Brazil expressed concerns that since 2005, South Africa had suspended imports of beef and pork meat from Brazil due to a foot-and-mouth disease outbreak in the country. Numerous attempts to reopen the South African market to Brazilian pork had been blocked by repeated unnecessary requests for additional information. Brazil had also sent at least four missions to South Africa and had invited South Africa to hold bilateral meetings on the margins of SPS Committee meetings. Since 2006, Brazil had provided information on the country's sanitary status and responded to all questions from South Africa. In February 2010, intense negotiations had finally resulted in the authorization of exports of Brazilian bovine meat to South Africa, but not Brazilian pork meat. Although bovine and swine herds could be affected by FMD, the 2005 outbreak had affected only the bovine herd, and South Africa's delay in accepting Brazilian pork meat could not be scientifically justified. Brazil requested that South Africa make a final, scientifically sound decision and promptly allow the importation of Brazilian pork meat.

212. South Africa affirmed that it was committed to resolve the problem soon, as demonstrated by the technical cooperation between the South African and Brazilian officials. South Africa had experienced several devastating outbreaks of diseases in the pig population, including classical swine fever and porcine reproductive and respiratory syndrome (PRSS), which had adversely affected South African pig production and cost close to a million dollars to eradicate. FMD was not the only disease of concern when importing pork meat. Although South Africa generally applied the concept of safe commodities as determined by the OIE, the OIE guidelines did not address all of the diseases of concern. South Africa continued to seek advice from the OIE on how to proceed regarding certain imports, considering the health status of its pig population. In particular, the OIE did not have

guidelines for the importation of meat that differentiated between pathogenic and apathogenic diseases. South Africa ultimately aimed to develop a health certificate for the importation of pork which would ensure protection of its swine population.

SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU (CHINESE TAIPEI) - CONCERNS RELATED TO MEASURES MAINTAINED BY CHINESE TAIPEI

Food safety

275. Restrictions on ractopamine in beef and pork

Raised by:	United States
Supported by:	Brazil, Canada, Costa Rica, Ecuador, Peru, Switzerland
Dates raised:	October 2008 (G/SPS/R/53, paras. 8-12), October 2009 (G/SPS/R/56, paras 141-147), March 2011 (G/SPS/R/53, paras 51-55), June 2011 (G/SPS/R/63, paras 53-59), October 2011 (G/SPS/R/64, paras 63-66)
Relevant document(s):	Raised orally. G/SPS/N/TPKM/114
Solution:	
Status:	Not reported
Date reported as resolved:	

213. In October 2008, the United States stated that the US pork industry had suffered for more than a year due to the lack of science-based maximum residue limits (MRL) for ractopamine in Chinese Taipei. Chinese Taipei had previously notified the SPS Committee of its science-based decision regarding ractopamine but then had failed to implement the measure as proposed (G/SPS/N/TPKM/114). US exports had dropped due to the need to source pork from animals not treated with ractopamine in order to meet the zero-tolerance requirements. The United States urged Chinese Taipei to implement its notified measure, which would facilitate US pork exports.

214. Canada stated that its authorities had approved the use of ractopamine as an ingredient in pig feed since July 2005 and in cattle feed since May 2007. Health Canada had concluded that the product was safe to use after conducting several tests. Canada encouraged all Members to accept the use of ractopamine as long as residues in edible tissues were within the safe levels.

215. Chinese Taipei stated that the use of ractopamine was forbidden by many WTO Members. The Codex Alimentarius Commission had also been unable to make a final decision on MRLs for ractopamine.

216. Codex reported that the MRLs for ractopamine had been extensively discussed but no conclusion had yet been reached. Codex invited Members to submit more information regarding ractopamine for consideration by the next Codex Commission meeting.

217. The European Communities reported that it had consulted the European Food Safety Authority (EFSA) on the safety of ractopamine including the establishment of MRLs. The European Communities hoped to have the information by early 2009, which could be sent to the FAO/WHO Joint Expert Committee on Food Additives (JECFA) for further evaluation.

218. In October 2009, Brazil noted that extensive discussions on this matter occurred during the last two sessions of the Codex Alimentarius Commission and at the 18th session of the Codex Committee on Residues of Veterinary Drugs in Foods. Despite the evidence presented by JECFA, an

MRL had not been adopted by the Codex. Brazil was concerned about the repeated postponement of a decision in spite of the existence of strong scientific evidence in favour of the adoption of this MRL. Since an MRL was needed in order to facilitate international trade, Brazil hoped that a decision would be made at the next meeting of the Codex Commission.

219. Canada noted that Canadian exporters had also experienced trade difficulties in several markets due to the absence of an MRL for ractopamine. In 2005 Health Canada approved the use of ractopamine in swine feed and established an MRL for ractopamine in pork. Canada supported the adoption by Codex of the proposed MRLs for ractopamine and was pleased when, in September 2007, the Codex Committee on Residues of Veterinary Drugs in Foods recommended the adoption of ractopamine MRLs at step 8. Canada was disappointed that this was not adopted at the 2009 Codex Commission meeting and expressed hope that it would be adopted at the 2010 meeting.

220. The United States stated that adoption of international standards for ractopamine should be an important priority for all WTO Members. Years of scientific evidence proved that ractopamine could be used safely. Ractopamine had been approved by over 25 countries and was currently at Step 8 in the Codex process. Some Members, however, imposed ractopamine bans without sufficient scientific evidence to support them. Codex had not adopted the draft MRLs at the 2009 Commission meeting because of a request from a major trading partner that one further scientific review be done by JECFA. The United States urged that trading partner to provide JECFA with the necessary information so that this study could be completed, and expressed the hope that the Codex Commission would move forward with adoption of the standard once that study was complete.

221. The European Communities noted that in 2008 EFSA, which was responsible for risk assessment, gave a standard opinion regarding the harmfulness of this substance. China had also conducted a study on the effect of ractopamine on the tissue of pigs. The Codex Commission decided that JECFA should evaluate the Chinese studies before coming to a decision with respect to the MRL for ractopamine.

222. China noted his authorities' commitment to ensuring that the international standard on ractopamine was of the highest quality. China would continue to actively participate in the Codex standard development process by carrying out experiments and sharing data with JECFA. Norway supported the interventions of the European Communities and China, stressing the need for JECFA to evaluate the last data submitted by China before coming to a final conclusion.

223. Australia agreed with the interventions of Brazil, Canada and the United States on this issue. Codex had made a risk management decision based on a risk assessment of the available data, and Australia supported the adoption of the draft proposed MRL for ractopamine.

224. Codex noted that JECFA had conducted an evaluation in accordance with the procedure in place for veterinary drugs. As noted by Australia, the risk management decision made by the Committee on Residues of Veterinary Drugs was then forwarded to the Codex Commission, but at the Commission there was no consensus. Rather, at the Commission session delegates referred to further studies and scientific data on the matter. It was agreed that JECFA would review the data that it had not previously reviewed. Two meetings of JECFA were scheduled for 2010 and they would make every effort to have the outcome of the review of this data available for the next session of the Commission in July 2010.

225. In March 2011, the United States stated that in January 2011 Chinese Taipei had ordered the cessation of the sale of US beef in grocery stores when two shipments of US beef had tested positive for ractopamine. Ractopamine was approved for use in 26 countries and in 2007 Chinese Taipei had determined that, based on scientific evidence, ractopamine was safe for use in cattle and swine. However, Chinese Taipei's notification of the implementation of MRLs, consistent with the draft

Codex standard, had been delayed by domestic opposition and had resulted in significant trade barriers to US exports.

226. Canada indicated that it had already raised its concerns with Chinese Taipei bilaterally and on the margins of Committee meetings. While Codex had not yet adopted MRLs for ractopamine, Canada believed that the scientific work conducted by Codex and the Joint FAO/WHO Export Committee on Food Additives fully supported their adoption. Hence, Canada requested that Chinese Taipei reconsider its current prohibition.

227. Chinese Taipei stated that although it had considered establishing MRLs for ractopamine, the process had been suspended due to criticism including from the scientific community. The 33rd Session of the Codex Alimentarius Commission had also been unable to reach a decision and Chinese Taipei was therefore of the opinion that further scientific research and evaluation were needed.

228. WHO reported that the compilation of scientific information on ractopamine was available on the JEFCA website and that the conclusions were clear. The only outstanding issue related to consumption of and exposure to ractopamine from lung tissue. At the last Codex Committee of Residue of Veterinary Drugs several participants had requested further clarification from China concerning the variability of concentration in lung tissue.

229. The European Union, Norway and Switzerland stated that there were no Codex MRLs for ractopamine and that in the absence of international standards, they did not accept imported products treated with ractopamine.

230. In June 2011, the United States recalled that in 2007, Chinese Taipei had notified its intention to implement MRLs for ractopamine use in cattle and pigs consistent with the draft Codex MRLs, based on its own assessment that the product was safe for use in cattle and swine. . However, staunch opposition of pork producers to foreign pork being imported resulted in delays in the implementation of the draft MRLs. The United States remained concerned about these actions because there was no scientific basis for questioning the safety of the use of ractopamine within the MRLs set by the United States, Canada, Japan, Korea and many other countries. Chinese Taipei's failure to ensure that its measures were science-based sent confusing signals to its own public on food safety issues. The failure to adopt ractopamine MRLs resulted in significant barriers to trade and would ultimately contribute to higher prices for consumers. In order to avoid further unjustified restrictions, Chinese Taipei should immediately implement the 10 ppb MRL that it notified in August 2007. The United States encouraged Chinese Taipei and all Members to ensure measures were based on science, and not to use media to unnecessarily scare consumers in order to maintain trade barriers.

231. Canada shared the concerns of the United States regarding the lack of scientific justification for the prohibition of ractopamine in pork and beef, and the creation of considerable uncertainty for beef and pork exporters. These concerns had been discussed bilaterally with Chinese Taipei, most recently at the 13 June 2011 meeting of the Canada-Chinese Taipei Agriculture Working Group in Ottawa. The scientific assessments conducted by Codex and JECFA supported the adoption of MRLs for ractopamine. Given the extensive scientific evidence, Canada requested Chinese Taipei to reconsider its current prohibition.

232. Both Brazil and Costa Rica expressed systemic concerns on the prohibition of ractopamine, including the lack of a scientific basis for such prohibitions. They were also concerned that the MRLs for ractopamine had not yet been adopted by Codex.

233. The European Union highlighted that as there was no international standard for ractopamine, every Member was free to adopt its own national measures as long as they were in line with the SPS Agreement. The European Union did not allow the use of ractopamine, nor any similar substances,

and did not accept imports of products from animals treated with ractopamine. In the interest of protecting the health of its consumers, the European Union maintained a preference for meat and meat products not treated by substances such as ractopamine, a fact which was widely known by those countries seeking to export meat and meat products to the European Union.

234. China and Norway supported the views of the European Union. China stated that more scientific work was needed to address the concerns of Members, and that a consensus must be reached before international standards were adopted. All Members had the right to adopt SPS measures as long as a risk assessment had been completed.

235. Switzerland stated that as a general rule it only authorized the administration of veterinary drugs to animals for therapeutic purposes; other chemical substances with no vital benefits were strictly regulated, and growth promoters like ractopamine were prohibited. The current Codex debate clearly showed that no scientific consensus existed regarding the safety of ractopamine. The lack of certainty in the risk assessment, as identified by EFSA in April 2009, combined with questions on risk management, led Switzerland to oppose the adoption of Codex MRLs for ractopamine.

236. Chinese Taipei responded that it had first prohibited ractopamine in 2006, and no MRL had been established. According to its legislation, therefore, any detection of ractopamine in meat products constituted a breach of the law. While it had notified in 2007 that it was considering the establishment of an MRL for ractopamine, the draft proposal had attracted considerable criticism and questioning from the scientific community, consumer groups, and other interested parties. For these reasons, Chinese Taipei concluded that it must continue to investigate the adverse effects of this drug on human health, while increasing its efforts regarding risk communication.

237. In October 2011, the United States observed that the failure of Chinese Taipei to adopt measures based on its own risk assessment resulted in significant trade barriers for US exports of beef and pork, and again requested Chinese Taipei to implement the 10 ppb MRL that it had notified in August 2007. The United States encouraged Chinese Taipei and all Members to ensure that measures were based on science, and not to use media to unnecessarily scare consumers in order to maintain trade barriers.

238. Canada shared the concerns of the United States regarding the lack of scientific justification for the prohibition of ractopamine in pork and beef, and the creation of considerable uncertainty for beef and pork exporters, anda requested Chinese Taipei to reconsider its current prohibition.

239. Brazil, Costa Rica, Ecuador and Peru expressed systemic concerns on the prohibition of ractopamine, including the lack of a scientific basis for such prohibitions, and were also concerned that the MRLs for ractopamine had not yet been adopted by Codex. Brazil emphasized that ractopamine had been proven safe and effective as a veterinary drug that increased feed efficiency, had undergone human and animal safety studies and been approved in 26 countries.

240. Chinese Taipei responded that it was continuing to investigate the adverse effects of this drug on human health, as it had fully explained at previous SPS Committee meetings, while increasing its efforts regarding risk communication.

Animal Health

291. BSE measures

Raised by:	Canada
Supported by:	United States, European Union

Dates raised:	March 2010 (G/SPS/R/58, paras. 19-20), June 2011 (G/SPS/R/63, para. 69-72)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

241. In March 2010, Canada expressed concerns over Chinese Taipei's BSE measures. In May 2007, the OIE recognized Canada as a "controlled BSE risk" country, and in July 2007 Chinese Taipei resumed partial trade with Canada by allowing access for boneless beef from animals under 30 months of age. However, despite numerous technical discussions, an inspection visit to Canada, the completion of a risk assessment, and a formal arrangement on conditions for bone-in beef from animals under 30 months, no further market access had been granted by Chinese Taipei. In January 2010, Chinese Taipei approved an amendment to its food sanitation act banning the import of offal and certain other bovine products from countries affected by BSE. Canada was concerned about the recent amendments to Chinese Taipei's legislation, and requested that all necessary steps be taken to ensure that the import conditions by Chinese Taipei were consistent with the recommendations and guidelines provided by the OIE.

242. Chinese Taipei explained that the recent 16th and 17th cases of BSE in Canada necessitated a new risk assessment of bone-in beef. Pending completion of the new risk assessment, the current regulations on imports of bone-in beef from Canada would remain in force. Chinese Taipei maintained that its BSE regulation was consistent with the SPS Agreement.

243. In June 2011, Canada continued to be concerned regarding Chinese Taipei's BSE-related restrictions and their negative effect on the Canadian beef industry. The 2007, OIE recognition of Canada as a BSE controlled risk country had been reconfirmed every year and most recently at the OIE meeting in May 2011. The OIE standard recognized that all beef products from countries within this risk category were safe without age restrictions, under conditions that Canada met. Canada had regularly raised this issue bilaterally with Chinese Taipei on the margins of the Committee meetings, and had repeatedly requested that Chinese Taipei expand Canadian beef access based on the OIE standards. At several high level meetings, including the 13 June Canada-Chinese Taipei Agriculture Working Group meeting in Ottawa, Chinese Taipei had not identified any remaining technical issues for Canada to address, nor any scientific reasons for not granting expanded access. Accordingly, Canada looked forward to working with Chinese Taipei to complete the remaining steps based on science, and hoped to report at the October 2011 Committee meeting that the issue was resolved.

244. The United States supported the concerns of Canada. In October 2009, Chinese Taipei had agreed to provide access for all US beef and beef products, consistent with its OIE controlled risk classification. However, in January 2010 Chinese Taipei's legislature banned import of all US ground beef, offal, and certain other beef products in violation of the October 2009 bilateral protocol. This measure was unjustified and inconsistent with the SPS Agreement. Chinese Taipei should review its current measures and replace these with measures based on science, reflecting the controlled risk status the OIE has granted to both the United States and Canada.

245. The European Union shared the concerns raised by Canada and the United States. The European Union noted that it could not export bovine products to Chinese Taipei even though EU member States were classified by OIE as having controlled or negligible BSE risk status, while other Members with similar risk status were able to export to Chinese Taipei. Chinese Taipei had been provided with the details of the EU BSE control measures. Chinese Taipei was urged to bring its

import conditions into line with the international standard on BSE as required under the SPS Agreement, and to allow imports of EU bovine products.

246. Chinese Taipei stated that risk communication was as vital as risk assessment, emphasizing that there was a need to communicate effectively with the public - including consumers, experts, academics, legislators, and any other interest groups - to alleviate their concerns and minimize the possible negative impact on trade. Chinese Taipei acknowledged Canada's BSE-controlled risk status as recognized by the OIE, but noted that because an 18th BSE case had been confirmed in Canada, the risk assessment of Canadian beef (with the updated information provided by Canada) was still under review.

THAILAND - CONCERNS RELATED TO MEASURES MAINTAINED BY THAILAND

Plant Health

326. Thailand's restrictions on table grapes, apples and pears

Raised by:	South Africa
Supported by:	
Dates raised:	October 2011 (G/SPS/R/64, paras. 42-43)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

247. In October 2011, South Africa indicated that its exports of fresh fruit, particularly table grapes, apples and pears, had been stopped as a result of Thailand's new Plant Quarantine Act No. 3. The Act prohibited imports of certain fresh produce until a pest risk analysis (PRA) was completed. An interim provision allowed the entry of products imported to Thailand prior to the prohibition, pending completion of the PRA. South Africa had sought to invoke this provision, which allowed for a case-by-case approval, and had proposed certain minimum requirements until the PRA was completed. South Africa urged Thailand to apply the interim arrangement to its exports, and to conclude the PRA so that trade in the affected products could resume.

248. Thailand confirmed that the import of certain fresh fruit and plants was prohibited until the national plant protection organization (NPPO) had completed a PRA. South Africa had been granted an interim exemption for its corn exports, but had not requested exemptions for any other fresh produce within the set deadline. Thailand suggested that the NPPOs of both countries engage directly to find a mutually satisfactory solution to the issue.

TURKEY - CONCERNS RELATED TO MEASURES MAINTAINED BY TURKEY

Other concerns

302. Restrictions on products derived from biotechnology

Raised by:	United States
Supported by:	Argentina, Canada, Paraguay

Dates raised:	June 2010 (G/SPS/R/59, paras. 30-33), October 2010 (G/SPS/R/61, paras 34-36), March 2011 (G/SPS/R/62, paras 59-61), June 2011 (G/SPS/R/63, paras 49), October 2011 (G/SPS/R/64, paras 69-71)
Relevant document(s):	Rasied orally + G/SPS/N/TUR/7, 8 10 and 11
Solution:	
Status:	Not reported
Date reported as resolved:	

249. In June 2010, the United States raised concerns about the development of Turkey's regulatory system for agricultural biotechnology (G/SPS/N/TUR/8). In the eight months since Turkey had begun implementing new biotech measures, Turkey had announced both a Biosafety Law, and several implementation measures. However, only two of those implementation measures had been notified to the WTO and one of those was notified as "effective immediately" with no comment period. The United States was concerned that compliance requirements were not shared publicly, and that regulations prohibiting the presence of biotechnology in products for infants and children did not refer to a risk assessment, hence leading to a lack of predictability in the approval process. The United States asked for clarification on the status of current approvals, the approvals process, and how the process would change after the Biosafety Law was enforced on 26 September 2010.

250. Canada stated that it would continue to monitor the implementation of Turkey's Biosafety Law and its impact on Canadian exports of genetically and non-genetically modified commodities. Canada hoped that the new law would take into account scientific assessments and would not be more trade restrictive than necessary.

251. Argentina supported the concerns raised by the United States, noting that the Turkish standards were not consistent with the SPS Agreement or Codex standards, and were unfavourable to modern biotechnology products. Argentina expressed deep concern about the measures and hoped that they would be revised based on the SPS Agreement and Codex standards.

252. Turkey stated that it had notified in 2009 and 2010 its legislation related to biosafety issues whose objectives were to: (i) establish and implement a biosafety system for human, animal and plant health; (ii) ensure the conservation of the environment and biodiversity and their sustainability; and (iii) establish science-based regulation and monitoring principles and procedures. Previous Turkish legislations and the Cartagena Protocol had been used as reference documents, as well as EU accession documents. Turkey had endeavored to address the concerns raised by the United States, Canada and Argentina regarding its notifications, including issues caused by mistranslation. Turkey indicated that it would draft and notify secondary regulations to the WTO, to clarify misunderstandings.

253. In October 2010, the United States welcomed Turkey's notification of the implementation of its new biotech measures; however the development and implementation of the law had not been transparent nor timely. The United States appreciated the valuable trade in agricultural products with Turkey and wished to re-establish market access for the previously approved products without delay. The United States remained concerned that the system prohibited the presence of biotech products in products for infants and children, as well as the cultivation of biotechnology without reference to a risk assessment or scientific evidence. The United States sought clarifications on the process and criteria used to evaluate approval decisions, and encouraged Turkey to establish written procedures outlining those processes and criteria, as well as to confirm that they were based on science.

254. Argentina expressed concern that the Turkish standards were not consistent with the SPS Agreement or Codex standards, and were unfavourable to modern biotechnology products. The

representative of Canada stated that the new law had to take into account scientific assessments and not be more trade restrictive than necessary. Canada also urged Turkey to consider delaying the implementation of the regulation for six months until at least 26 February 2011.

255. Turkey stated that the objectives of its legislation were to protect human, animal and plant health against risks emerging from GMOs and GMO-based products. Previous Turkish legislations and the Cartagena Protocol had been used as reference documents, as well as EU accession documents. There were around 12,000 protected species in Turkey, 3,700 of those being only endemic to Turkey. More than 700 agricultural products could be naturally grown in Turkey, therefore it was critical for Turkey to protect its rich biodiversity from the risks arising from biotech products. Turkey had endeavoured to address the concerns raised by various Members regarding its notifications, including issues caused by mistranslation. Turkey indicated that it would draft and notify secondary regulations to the WTO, to clarify misunderstandings. Turkey welcomed the opinions of its trading partners to improve its legislations. Turkey further asserted that the implementation of its legislation was science-based and fully complied with WTO and other international rules, as well as with the Cartagena Biosafety Protocol. In addition, Turkey expressed that no particular trade restriction had been reported during the preparation and adoption of the legislation or after its enforcement.

256. In March 2011, the United States noted that the development and implementation of Turkey's law on new biotech measures had not been transparent. Turkey had approved the use of three soybean varieties for feed on 26 January, however they had not yet been approved for food use and no other varieties had been approved for either food or feed use despite applications having been submitted. The United States remained concerned that the system prohibited the presence of biotech products in products for infants and children, as well as its cultivation without a risk assessment or scientific evidence. The United States sought clarifications on the process and criteria used to make decisions.

257. Canada and Argentina noted that they had raised concerns in writing that Turkey's proposed regulations were not based on science and, were still awaiting a response from Turkey. As the new GMO regulations had already been implemented, both Canada and Argentina asked how trading partners' comments would be taken into account, and urged Turkey to reconsider its regulations in light of those concerns.

258. Turkey stated that replies had been sent to Canada and Argentina in December 2010 and copies would be given to the respective representatives at the end of the meeting. Turkey had notified its new measure with sufficient time for Members to provide comments (G/SPS/N/TUR/7, 8, 10 and 11). Turkey had received comments from five Members and had allowed eight months between the notification and the implementation of the legislation. The comments received by Turkey related to: (i) terminology; (ii) translation issues; and (iii) other questions and comments. All relevant comments had been taken into account during the preparation of the secondary legislation. The legislation was based on the principles of the UNCBB Protocol, and attempted to manage the risks associated with GMO products. The legislation had been implemented for six months and so far, no trade restrictions had been reported.

259. In June 2011, the United States expressed concerns regarding the 1 April extension of the Biosafety Law to prohibit the use of products derived from biotechnology for industrial purposes, including cotton fibre from biotech cotton. The action was implemented without advance notice and caused additional disruption to trade. This reinforced previously raised concerns with the Biosafety Law, including the apparent lack of scientific justification, lack of transparency, lack of predictability for approvals, extreme liability provisions, and lack of response to requests for clarification. The United States remained eager to work with Turkey to develop solutions to these concerns and to prevent future trade disruptions.

260. Canada reiterated that several provisions of the regulation lacked a scientific basis and were unduly trade restrictive, in particular the provisions related to the GMO approval process, a ban on GMO cultivation, mandatory labeling, and the certification and inspection regime. Canada had appreciated its discussions with Turkey on 29 June 2011, and wished to prevent unnecessary disruptions to trade.

261. Argentina and Paraguay supported the concerns of the United States and Canada, and urged Turkey to bring its biotechnology regulations into line with the SPS Agreement.

262. Turkey referred to its previous responses contained in G/SPS/R59, R/61 and R/62. The draft biosafety law was notified in January 2010, adopted in March 2010 and implemented on 26 September 2010. During the six-month period between March and September 2010, relevant secondary regulations were released and notified in a timely manner. Citing Article 7 and Annex B of the SPS Agreement, Turkey stated that it did not take into account comments regarding matters outside the scope of the SPS Agreement in the preparation of the regulation. The biosafety measures were science-based and in compliance with WTO rules, and no trade restriction had been reported by any trading company. In fact, there were a number of examples of increases of imports of biotechnology products from the United States, Brazil, and Paraguay into Turkey since the passage of the biosafety measures, raising questions as to the relevance of this trade concern since the import volume of transgenic products into Turkey was booming.

263. In October 2011, the United States stated that Turkey's new biosafety law restricted access for many US products derived from agricultural biotechnology. Trade had been re-established only for some products previously approved for import. The January 2011 approval of three soy beans events for feed use was welcome, however, these events had previously been permitted also for use in food production. No other events were approved for either food or feed use, although such products were permitted prior to the biosafety law. Despite numerous bilateral discussions, many of the provisions of the regulatory system remained unclear. The system prohibited the presence of biotechnology in products for infants and children, or the cultivation of biotechnology crops, without a risk assessment or scientific evidence. The criteria to evaluate biotech products for import was not clear, which lead to unpredictability in the approval process. Turkey's ban on industrial use and cotton certification requirements appeared unnecessary and raised concerns among importers about possible legal consequences. The recent decision to allow soy bean oil to be used in the paint sector was a step in the right direction. The United States reiterated its interest to work with Turkey to develop solutions that would resolve the current problems and prevent future disruptions to trade.

264. Canada supported the United States. Canada appreciated Turkey's recent response to its letter on GMO regulation, but a number of questions and concerns which had been raised at previous SPS Committee meetings and bilaterally remained. Several provisions of the regulation lacked a scientific basis and were unduly restrictive on trade, in particular the provisions related to the GMO approval process, the liability provision, a ban on GMO cultivation, mandatory labeling, and the certification and inspection regime. Canada also asked Turkey to notify its implementation directives in order to clarify the authorization status of GMOs in Turkey. Argentina supported the concerns of the United States and Canada, and urged Turkey to bring its biotechnology regulations into line with the SPS Agreement.

265. Turkey responded that its biosafety regulations had been notified in 2009 and 2010 (G/SPS/N/TUR/7 and G/SPS/N/TUR/8). Turkey had taken into consideration the comments from five Members during the preparation of the legislation. Implementation of the legislation started on 26 September 2010, following a six-month transition period, and since then 184 transactions had been completed and over one million tons of products derived from GMOs imported into Turkey. About one-third of these imports came from the United States, about 16 per cent from Argentina and 3 per cent from Canada. Around 80 applications for authorization were being examined by the scientific

committee in the relevant ministry, however, there were limits to their technical capacity to expedite the process. No application for authorization had been rejected to date. Furthermore, since the last SPS Committee meeting, agricultural imports had continued to increase at a significant rate; there were no disruptions of trade due to the biotechnology legislation. Turkey was willing to further clarify the legislation and its implementation to interested Members.

UKRAINE - CONCERNS RELATED TO MEASURES MAINTAINED BY UKRAINE

Animal Health

315. Ukraine import restrictions on poultry and poultry products

Raised by:	Mexico
Supported by:	
Dates raised:	March 2011 (G/SPS/R/62, paras. 32-34)
Relevant document(s):	G/SPS/N/UKR/54
Solution:	
Status:	Not reported
Date reported as resolved:	

266. In March 2011, Mexico expressed concerns with Ukraine's emergency notification regarding the reappearance of Newcastle Disease (G/SPS/N/UKR/54), and noted that Mexico provided timely reports on new outbreaks. Mexico asked Ukraine to modify its measures and apply the concept of regionalization.

267. Ukraine indicated that its decision had been taken in light of information from the OIE, according to which Mexico had reported the disease without compartmentalization in 2010. Hence the principle of regionalization was not relevant in this case. However, Ukraine was open to discussing the issue bilaterally.

268. The OIE indicated that the OIE did not recognize Newcastle Disease-freedom in the same way that it recognized Foot and Mouth Disease-freedom, and the best way to demonstrate freedom from Newcastle Disease was to indicate that a country was in full compliance with the relevant OIE Code chapters. The OIE would be happy to help resolve this matter using its informal mediation mechanism.

UNITED STATES - CONCERNS RELATED TO MEASURES MAINTAINED BY UNITED STATES

Food safety

299. US 2009 Food Safety Enhancement Act

Raised by:	China, India
Supported by:	Costa Rica, India, Jamaica, Mexico, Pakistan, Philippines
Dates raised:	June 2010 (G/SPS/R/59, paras. 21-23), March 2011 (G/SPS/R/62, paras. 43-47), June 2011 (G/SPS/R/63, paras. 42-45), October 2011 (G/SPS/R/53, paras. 52-54)
Relevant document(s):	Raised orally. G/SPS/N/USA/690/Add.11, G/SPS/N/USA/704/Add.2
Solution:	

Status:	Not reported
Date reported as resolved:	

269. In June 2010, China expressed concerns related to the US 2009 Food Safety Enhancement Act. The US Congress had proposed several new measures, including required registration for export food companies, follow up inspections, compulsory certification for high risk imported products and the expansion of FDA authority. China asked the United States to notify these new measures and to provide the opportunity for Members to make comments before the adoption of the legislation.

270. India expressed the need to understand the proposed legislation. Indian industry had questions regarding the duration of the registration process, whether it was modeled on international standards, whether foreign government and sector associations would be notified before or after a food facility was inspected, and how the fast-track process for registration would work. Once it had a better understanding of this process, India would seek further clarification.

271. The United States clarified that the US Congress was in the process of considering this legislation and it was not clear when the bill would become law, if at all. Accordingly, because the Food Safety Enhancement Act was not a SPS measure, the United States did not believe it was appropriate to comment on it at this time. However, if this bill or any other food safety legislation did become law, the United States would alert its trading partners, and would notify the WTO accordingly.

272. In March 2011, China, supported by Costa Rica and Pakistan, stated that despite promises to that effect, the United States had not notified the draft US Food Safety Modernization Act before the Act was formally adopted in January 2011. Hence, Members were only provided an opportunity to comment on the Act when it was notified by the United States on 2 March 2011. China asked that the United States notify draft regulations from the Act so that Members would have an opportunity to provide comments.

273. Jamaica raised several concerns regarding the US Food Safety Modernization Act relating to: (i) guidelines on the mandatory preventative controls for food facilities; (ii) produce safety standards in place in Jamaica and other Caricom countries; (iii) the status of the Jamaican Bureau of Standards' inspection checklist vis-à-vis the mandatory inspection of foreign facilities commencing in 2012; (iv) special and differential treatment with regards to the implementation period for enhancing food tracing and record-keeping; (v) foods tested by an accredited laboratory in Jamaica and whether they would need to be tested in the United States; (vi) the determination of the eligibility of a body listed as one of the Accreditation Bodies; and (vii) training and funding on the interpretation and implementation of the Act.

274. The Philippines requested that the measures and standards of the Act not be unnecessarily burdensome nor unduly increase the cost of compliance for small industries.

275. Mexico expressed concern regarding the administration of foods and that some elements of the Act were not based on science. Mexico noted that it would submit its comments to the relevant authorities.

276. The United States indicated that Members would be given an opportunity to comment on draft regulations before they were finalized and binding on affected parties, including food manufacturers and importers. The FSMA required that FDA publish regulations and guidance documents to implement the provisions of the law and the FDA would publish those documents over the next several years. Regarding Jamaica`s comments on food controls, regulations would be

developed and Jamaica would have the opportunity to comment during the drafting process. The concerns regarding the inspection frequency and checklists, would be forwarded to the FDA for consideration. The United States further noted that concerning Jamaica's queries on food tracing, record-keeping and laboratory accreditation, draft regulations would take into consideration information provided by Members as well as existing arrangements. Finally, it was noted that the FDA was still developing plans with regards to capacity development.

277. In June 2011, India indicated that the US Food Safety and Modernization Act (FSMA) introduced an elaborate multi-layered scheme of checks within the food supply chain to minimize the possibility of food contamination, putting extra burden on exporters and leading to higher transaction costs. In this light, India sought clarification on several key issues, including the foreign supplier verification programme, the voluntary qualified importer programme, certification and audit, and regulations to be introduced under the FSMA. India urged the United States to ensure the FSMA is in line with the SPS Agreement and the Codex principles and guidelines for the design, operation, assessment and accreditation of food import and export inspection and certification systems.

278. China expressed disappointment that the United States did not notify nor provide a sufficient comment period. To avoid unnecessary restrictions on trade, the United States should consider the compatibility of the FSMA regulations with those of developing country Members with whom the United States had signed bilateral SPS protocols. Bearing in mind the importance of food and agricultural exports for developing country Members, the United States should provide a sufficient transition period, as well as technical assistance, for developing country Members to adapt to the new requirements.

279. Mexico remained concerned about the administrative procedures in Section 207, the requirements for accreditation, the inspection procedures regarding control and approval in Section 306, the possibility of recognition of equivalence between countries or Memoranda of Understanding, and Section 301 regarding foreign suppliers. Mexico appreciated the US presentation at the last Committee meeting and the meetings between Mexican and FDA authorities in June.

280. The United States emphasized its commitment to implementing FSMA in a transparent manner according to its WTO obligations, and keeping in mind Codex standards, guidelines, and texts. It had notified FSMA as G/SPS/N/USA/2156 in February 2011, and the FDA had conducted numerous outreach sessions including a special session at the March SPS Committee meeting to provide detailed explanations of the law. The United States had received comments from China and Mexico, but not from India, before the June meeting. The FDA had not yet implemented the provisions regarding foreign supplier and voluntary importer programmes and welcomed Members' comments when these provisions were notified, in particular scientific evidence on potential health and safety concerns and data on economic impacts. The United States reported that it would notify all implementing regulations to foreign stakeholders through the WTO, as they are developed and consistent with its international obligations. A series of events had been organized between FDA representatives in Delhi and relevant Indian authorities, including a briefing on the FSMA in February 2011, a discussion regarding third party certification in May 2011, a series of four-day workshops to over 175 participants in May 2011, and a meeting of senior Indian officials and exporters in October 2011.

281. In October 2011, China emphasized the importance of food and agricultural exports for developing country Members, and urged the United States to provide a sufficient transition period before implementation of the US Food Safety Modernization Act (FSMA), as well as technical assistance for Members to adapt to the new requirements.

282. India stated that the FSMA created extra burdens for exporters and lead to higher transaction costs. India argued that various provisions of the FSMA did not reflect the core principles of

equivalence (Article 4) and harmonization (Article 3) of the SPS Agreement, and urged the United States to ensure the FSMA was in line with the SPS Agreement so as not to affect trade between Members. India's key concerns related to the registration of Foreign Food Facilities, the Voluntary Qualified Importer Program, Certification and Audit and the Foreign Supplier Verification Program.

283. The United States noted that FDA was as transparent as possible, including making presentations to the SPS Committee, holding numerous outreach sessions with all stakeholders, keeping current information on the Web. The United States was committed to implement FSMA in a transparent manner consistent with its WTO obligations and would take into account relevant Codex standards and guidelines. The FDA had issued interim final rules requiring persons submitting prior notice of imported food to report any other countries' refusal of the food (G/SPS/N/USA/690/Add.11) and had also amended criteria used to order administrative detention of food for human or animal consumption (G/SPS/N/USA/704/Add.2). The FDA had not yet issued regulations for the FSMA provisions for the foreign supplier and voluntary importer programmes. Members could comment when the proposed rules were notified. The United States welcomed Members' perspectives on implementation of the FSMA.

328. US default MRLs limits of determination or limits of quantification on basmati rice

Raised by:	India
Supported by:	
Dates raised:	October 2011 (G/SPS/R/64, para. 47)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

284. In October 2011, India stated that in August 2011, the US FDA issued an import alert because of the presence of the fungicide Tricyclazole in a shipment of Basmati rice. The shipment was detained without informing either the Indian Government or the exporter, and all subsequent consignments of Basmati rice by that exporter were detained without physical examination. The US tolerance was at the Limit of Quantification, and consignments were being rejected for Tricyclazole residues exceeding 0.01 ppm. These detentions and the imposition of testing charges had resulted in huge losses to the exporter. Tricyclazole was a fungicide used for treatment of Blast in rice. The US tolerance limits conflicted with Article 5.4 of the SPS Agreement, which required Members to take into account the objective of minimizing negative trade effects, as Tricyclazole was widely used in India, China, Japan and Thailand for treatment of Blast. Further, Article 5.5 was not respected as the FDA permitted MRLs of Tricyclazole in rice bran, rice hulls and rice polishings of up to 30 ppm. No risk assessment, as mandated by Articles 2.2 and 5.1, seems to have been undertaken while setting the tolerance limit for Tricyclazole. India argued that the practice of setting default limits was contrary to the core principles of the SPS Agreement as there appeared to be no scientific justification, and it seemed to be contrary to the principle of harmonization of Article 3.

285. The United States replied that under the US Food, Drug, and Cosmetic Act, a food was deemed adulterated if it contained a pesticide for which there was no EPA-established tolerance or exemption, and food that is adulterated is not admitted into the United States. Several firms and products, had been added to FDA's Import Alert #99-08, "Detention Without Physical Examination of Processed Foods due to Illegal Pesticide Residues" Products, including persimmon and rice flour, as well as basmati rice from three countries, had been subject to an Import Alert due to detection of Tricyclazole. The Government of India and the exporter were notified about the detention. When a

shipment was detained, the importer had the opportunity to demonstrate that the shipment did not contain the residue, and FDA usually accepted private laboratory analysis as evidence that there are no residues. No tolerances for the use of Tricyclazole as a pesticide in rice had been established by EPA. The EPA had established tolerances for rice for three alternative fungicides, namely Azoxystrobin, Propiconazole, and Trifloxystrobin. India could use one of the alternative fungicides to combat rice Blast or work with EPA to establish a tolerance for Tricyclazole in the United States. The Codex had not established a maximum tolerance level for Tricyclazole in any food. The United States encouraged India to work with EPA and FDA to address the concerns.

Animal Health

318. US failure to recognize South Patagonia as FMD-free and to import beef from north of the 42nd parallel

Raised by:	Argentina
Supported by:	
Dates raised:	June 2011 (G/SPS/R/63, para. 17), October 2011 (G/SPS/R/64, paras 96-97)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

286. In June 2011, Argentina expressed its concern that the United States failed to recognize South Patagonia as a FMD-free region without vaccination, despite the OIE recognition of this status for South Patagonia since 2002. The request for recognition had been sent to the United States in 2003, and a risk analysis conducted in 2007 gave satisfactory results, however no recognition had been granted. Argentina was also concerned about the delay in the US authorization of imports of fresh, chilled and frozen beef from the region north of the 42nd parallel. The OIE recognized the rest of Argentina as an FMD-free area with vaccination in 2007. The US Department of Agriculture (USDA) had carried out an audit in 2006, but had never reported the results. The delays in processing both of these requests were not due to scientific reasons and were therefore in contravention of Articles 3 and 6, and Annex C, of the SPS Agreement.

287. The United States stated that USDA was considering several requests from Argentina to allow imports of lamb and beef into the United States. USDA's Animal and Plant Health Inspection Service (APHIS) had made significant progress in recognizing the FMD-free status of South Patagonia. In light of the information Argentina provided in 2009, which was used to update the 2005 risk analysis, APHIS was able to conclude that the import of ruminants and ruminant products from this region presented a negligible risk of FMD. This information was used in preparing a draft report to Congress on the risk associated with importing ruminants or ruminant products from Southern Patagonia. By law, the report had to be submitted to the Congress before USDA could move forward with administrative rule-making. APHIS had also completed the risk analysis regarding the region north of the 42nd parallel and would subsequently draft a proposal to allow the importation of beef under certain conditions.

288. In October 2011, Argentina recalled that the United States had indicated at the previous meeting that the information provided by Argentina on ruminant and ruminant products from the region of Patagonia was useful to prepare a report to Congress as required by US Law, in particular the Agriculture and Rural Development, Food and Drug Administration Appropriations Act of 2009,

Section 737. The United States had also indicated that the Animal and Plant Health Inspection Service (APHIS) had completed the risk analysis for the rest of Argentina and had drafted proposed regulations to allow for the importation of meat products. However, in spite of this, trade had not resumed and imports from Argentina continued to be restricted without any scientific basis. Argentina requested the United States to complete its risk analysis and allow access to the US market for meat products.

289. The United States stated that it was working closely with the Argentine authorities and APHIS had made significant progress in recognizing the FMD free status of South Patagonia. The information provided by Argentina had been used to complete and update the risk analysis and to prepare the report to Congress in accordance with the Appropriations Act. APHIS had completed the assessment and was drafting a proposal to allow the importation of beef under certain conditions. When the assessment and rules were completed in the near future, the United States would be able to provide market access for Argentine beef.

Plant Health

102. Import restrictions on potted plants from the European Union

Raised by:	European Union
Supported by:	China
Dates raised:	July 2001 (G/SPS/R/22, paras. 30-31), March 2005 (G/SPS/R/36/Rev.1, paras 58-60), June 2005 (G/SPS/R/37/Rev.1, paras 70-71), October 2005 (G/SPS/R/39, paras 72-73), March 2006 (G/SPS/R/42, para. 40), February 2007 (G/SPS/R/44, para. 62), October 2011 (G/SPS/R/64, paras 77-78)
Relevant document(s):	G/SPS/N/USA/1059
Solution:	Reported as resolved in June 2006, with the issuance of the US final rule on plants in growing media. However, in February 2007, the EC reported that the issue remained unresolved due to continued difficulties faced by one EC Member state.
Status:	Not reported
Date reported as resolved:	

290. In July 2001, the European Communities indicated that exports of plants in growing medium had been impeded for over 20 years because the United States conducted a pest risk assessment for each type of plant before allowing imports, and each assessment took several years to complete. In addition, the requirements for accepted species were very rigid and not proportional to the potential risk. The European Communities requested the United States to adjust its import requirements and administrative procedures to allow for market access. The United States replied that its requirements reflected the need to avoid introduction of pests and diseases that could seriously undermine native ecosystems as well as cultivated plants. The roots of potted plants, even in an approved medium, could not be examined for signs of disease, and other mitigation measures were necessary. The United States was preparing a technical proposal for review by the Commission and EC member States, and had proposed the formation of a joint technical working group to address the issue. USDA was willing to review any systems certification proposal submitted by the Commission or its member States, with the understanding that any modifications to existing US regulations would have to be scientifically justified and be subject to the US rulemaking process.

291. In March 2005, the European Communities reiterated concerns that for more than 20 years this sector had attempted to obtain better conditions for access to the US market. The most recent visit in May 2003 had resulted in a US assessment that EC member States had very high SPS standards and were expected to meet US requirements. However, the difficulties were continuing. For instance, a Danish request for approval to export Schlumbergera to the United States had been submitted ten years ago and the corresponding US pest risk assessment had become available only in June 2004. The European Communities urged the United States to review its internal administrative procedures in the phytosanitary field to ensure these did not create unjustified trade restriction.

292. China shared the concerns of the European Communities. In 1980, China had started to export potted plants in growing media to the United States, and experienced problems similar to those of the European Communities. Although in 1996 China had signed a work plan for exporting plants in growing media to the United States, to date, China could not export to the United States.

293. The United States recognized the importance of this issue to the European Communities and had taken a number of steps to ensure that the concerns were handled as expeditiously as possible. The United States was examining how and whether its import regulations for nursery stock, including plants in growing media, might be changed. An advanced notice of proposed rulemaking had been published in December 2004, and all Members could provide comments on that proposal. The proposal sought to streamline the specific process questioned by both the European Communities and China. The United States hoped to publish a proposed rule for Schlumbergera from the European Communities in the near future.

294. In June 2005, the European Communities recalled that on 27 April 2005, the US authorities had notified as G/SPS/N/USA/1059 a draft rule proposing the inclusion of two species from the Netherlands and Denmark in the conditional positive list of plants established in approved growing media that might be imported into the United States. The European Communities welcomed the progress made on this issue and requested that new applications for similar species from similar production systems or country pest status be treated as an extension of this proposed rule. This request was legitimate, proportionate to the risk and trade facilitating by nature. The European Communities invited the United States to publish the final rule as soon as possible.

295. The United States indicated that the comment period for its draft rule had closed on 27 June 2005. The United States requested a written copy of the EC statement to further consider its request. However, considering any additions or revisions to a proposed rule that had been both notified and published might slow down final action.

296. In February 2006, the European Communities recalled that this issue had been pursued in bilateral discussions for the past 25 years. Specifically at issue was the request from Denmark and the Netherlands for approval of particular plant species (Schlumbergera spp and Rhipsalidosis spp, respectively). In April 2005, the United States has notified a draft rule on the "Importation of Christmas Cactus and Easter Cactus in Growing Media from the Netherlands and Denmark" (G/SPS/N/USA/1059) with a comment period ending in June 2005. The United States was invited to publish the final rule as soon as possible and to consider new applications for species with similar production systems or country pest status as an extension of the existing proposed rule.

297. The United States noted that since June 2005, the United States had conducted a thorough review of all comments received and had begun drafting a final regulation. No revisions to the proposed rule were currently being considered in order to avoid any delays in the publication of the final rule, however it was not possible to give a specific time frame for such a publication. In addition, the United States was also considering changes to its entire regulatory framework for import measures affecting plants in growing media, as notified in G/SPS/N/USA/1043 in March 2005. Comments on this notification were currently being reviewed. The United States would ensure that

any modification to the existing regulations would meet both the plant health protection requirements and the requirements of the SPS Agreement.

298. At the June 2006 meeting of the SPS Committee, the European Communities indicated that the issuance of the US final rule on plants in growing media, including Schlumbergera, would resolve this issue.

299. In February 2007, the European Communities recalled that they had previously reported that their concerns regarding US measures on plants and growing media had been resolved as the United States had indicated that it would publish a final rule which addressed these concerns. Unfortunately, one EC member State continued to face difficulties in exporting to the United States. The European Communities therefore considered that, for the time being, this issue was as yet unresolved.

300. In October 2011, the European Union recalled that it first raised this issue in July 2001 focussing on import restrictions on potted plants. Specific bilateral efforts had been on-going at technical level since 2008, however, the issue remained unresolved. US procedures to set import requirements for plants, fruits and vegetables were organized in three principle phases, and each of these steps was time consuming. The European Union made every effort to ensure that EU applications were well-prepared and in conformity with all requirements, and expected the United States to deal with all EU applications rapidly.

301. The United States replied that the USDA APHIS had provided detailed responses to the multiple requests for market access from various EU member States. Progress had been made on several of these issues. In November 2010, the US market was opened to wall rocket from the United Kingdom, which had been identified as a top priority by the European Union. APHIS was close to publishing a final rule that would address the issue of bromeliads, which was the EU priority for plants in growing media. APHIS was also working to develop a joint protocol for the export of apples and pears from several EU member States, and continued to work on numerous other market access requests identified as EU priorities. In addition, APHIS had made considerable progress on other requests, for instance on apricots and avocados from Spain. The US approach of requesting additional information or clarification on a particular point often helped avoid delays and resulted in fewer denials.

316. United States import restrictions on chrysanthemums

Raised by:	Costa Rica
Supported by:	
Dates raised:	March 2011 (G/SPS/R/62, paras. 35-36)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

302. In March 2011, Costa Rica stated that it was free from Chrysanthemum White Rust and had requested the United States to reduce post-entry quarantine to two months. However, the United States continued to request a post-entry quarantine of six months. On 27 April 2010, APHIS had provided a post-entry permit restricting chrysanthemums from Costa Rica to 2000 cuttings, this was a disproportionate measure since chrysanthemums from Costa Rica could not spread Chrysanthemum White Rust.

303. The United States responded that the APHIS was re-examining the quarantine status of Chrysanthemum White Rust and would address Costa Rica's concerns. However, Chrysanthemum White Rust remained a pest of quarantine significance in the United States and the United States continues to eradicate for it. Once determined, the necessary steps for potential changes in regulatory requirements for imports would be communicated to Costa Rica.

VIET NAM - CONCERNS RELATED TO MEASURES MAINTAINED BY VIET NAM

Food safety

314. Viet Nam's ban on offals

Raised by:	United States
Supported by:	Australia, Canada, New Zealand, European Union
Dates raised:	March 2011 (G/SPS/R/62, paras. 28-31), June 2011 (G/SPS/R/63, paras. 60-63), October 2011 (G/SPS/R/64, paras. 57-60)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

304. In March 2011, the United States expressed concerns about Viet Nam`s implementation of a temporary ban on the importation of offal products as of 7 July 2010. While Viet Nam had cited food safety concerns for the implementation of the ban, in spite of repeated requests from several trading partners, Viet Nam had neither notified the WTO of this measure, nor had it provided any scientific justification for the ban. The United States had raised this issue bilaterally in the margins of previous Committee meetings and at Transpacific Partnership meetings, but was yet to see any change in the ban.

305. Canada supported the concerns of the United States. Canada was informed of the ban only after it had been imposed, and was not provided any scientific explanation for the action. This ban had resulted in the immediate ban of trade valued at 4.2 million Canadian dollars in 2009. Canada had made numerous requests for Viet Nam to remove the ban, and the Canadian embassy in Viet Nam had been informed that Viet Nam intended to partially lift the ban. However, Viet Nam had subsequently introduced additional SPS requirements on offal imports, which Canada hoped were science-based.

306. The European Union, New Zealand and Australia supported the concerns expressed by the United States and Canada.

307. Viet Nam responded that the emergency measures taken to temporarily suspend the importation of offals were in response to grave public health concerns. According to a 2009 WHO report, eight million Vietnamese people had health problems related to food. Viet Nam was aware of the concerns raised by its trading partners and was looking for solutions. However, as a developing country with limited resources, it would take some time to strengthen the inspection procedures and provide uniform guidelines. Viet Nam had already lifted its temporary ban on offals from poultry and pork and was currently in discussion with the United States and other trading partners to find adequate solutions for both Viet Nam's human health situation and trade.

308. In June 2011, the United States noted Viet Nam had lifted its ban on hearts, livers, and kidneys derived from cattle, swine, and poultry, but the ban on all other offal products continued. To

date, no scientific justification had been provided for the ban, despite many requests for such information, and the United States urged Viet Nam to lift its unjustified ban immediately.

309. The European Union expressed similar concerns and indicated that the ban seriously affected EU exports of offal. The ban was not consistent with Viet Nam's obligations under the SPS Agreement, as the measure had not been notified; no scientific justification had been provided despite requests from trading partners, and there were no similar measures on domestic offal, thereby discriminating against foreign imports. The recent revision of the ban, which would allow resumption of imports of some red offal, was a positive step, but the ban on other types of offal remained in place. Viet Nam was urged to immediately lift its ban on all offal or, alternatively, to provide a risk assessment and scientific justification. Viet Nam should refrain from implementing such measures in the future, and comply with the transparency requirements and other obligations under the SPS Agreement.

310. New Zealand supported the systemic concerns expressed by the United States and the European Union, specifically with regard to the lack of notification and scientific justification, and requested Viet Nam to lift the ban as soon as possible.

311. Viet Nam responded that there was no formal regulation banning imports of offal. During 2009 and early 2010, imported frozen animal and animal products were found to violate the food safety requirements of Viet Nam; within that time period, Viet Nam detected and disposed of 94 tons of meat, 42,57 tons of offal, and 234,000 chickens. In order to protect Vietnamese consumers, the government issued Letter 1152 requesting relevant agencies to better control imported animal products. The Ministry of Agriculture and Rural Development (MARD) enacted Circular 25 on registration and management to control the import of animal products, and Circular 29 on criteria for testing and control to regulate the level of contaminants in animal products. To continue trade in animal offal, the MARD Department of Animal Health enacted an official letter on 23 March 2011 to guide the import of red offal. On 1 June 2011, the MARD sent Letter 1528 to Viet Nam's customs offices to inform them of the decision to allow trade in red offal. According to data from the Department of Animal Health, from March to May 2011 Viet Nam imported 170 tons of red offal from the United States and Canada. Viet Nam still banned all trade in white offal and intended to conduct a risk assessment on white offal. Viet Nam was willing to meet bilaterally with interested Members, and sought more information and data with which to conduct the risk assessment with the goal of opening trade in white offal.

312. In October 2011, the European Union indicated that Viet Nam's ban, in place since July 2010, seriously affected EU exports of offal, and recalled that Viet Nam had previously indicated its intention to conduct a risk-assessment. Viet Nam claimed to have taken these measures because imported frozen animals and animal products were found to violate its food safety requirements. However, Viet Nam had indicated that no violations were found on EU products, and as such import bans on EU offal were not justified. Moreover, since there were no similar measures on domestic offal, the measure discriminated against foreign imports. The European Union welcomed Viet Nam's partial lifting of the ban on red offal, and looked forward to Viet Nam's commitment to lift the ban by end of 2011.

313. The United States shared concerns about Viet Nam's restrictions on offal without any scientific justification or notification being provided to the WTO or trading partners. After months of discussions, the Ministry of Agriculture and Rural Development (MARD) had provided an official indication in July 2011 that it would lift its ban on red offal, and later on products derived from cattle. However, all other products, such as stomachs and intestines derived from cattle, swine, and poultry, remained banned. The United States urged Viet Nam to lift all of the bans on offal immediately.

314. New Zealand continued to supported the systemic concerns of the European Union and the United States, specifically with regard to the lack of notification and scientific justification.

315. Viet Nam reiterated that the temporary measure was geared at protecting human health from risks arising from contaminants, toxins or disease-causing organisms in food, and that the measure did not aim to impose trade restrictions. In light of the concerns of its trading partners, Viet Nam was considering how to prevent a negative trade impact from the measure, and had already lifted the ban on red offals. However, as a developing country with limited resources, the Vietnamese authorities needed time to collect the information for risk assessments. Viet Nam urged trading partners to provide relevant information and technical cooperation to facilitate the process.

CERTAIN MEMBERS - CONCERNS RELATED TO MEASURES MAINTAINED BY CERTAIN MEMBERS

Food safety

313. Import restrictions due to dioxin contamination in Germany

Raised by:	European Union
Supported by:	
Dates raised:	March 2011 (G/SPS/R/62, paras. 26-27)
Relevant document(s):	G/SPS/N/ARG/41, G/SPS/N/ARG/41/Add.1
Solution:	
Status:	Not reported
Date reported as resolved:	

316. In March 2011, the European Union expressed concerns regarding import restrictions due to dioxin contamination in Germany. In light of the fact that Germany was managing the situation efficiently, many countries had lifted their restrictions. However, a number of Members continued to impose import restrictions which affected animal products from the European Union. The contamination was under control and the European Union urged Members to immediately lift their import restrictions.

317. Argentina responded that Argentina was one of the countries that had imposed import restrictions in response to the dioxin contamination. Argentina had notified the WTO that it had set up a surveillance programme for certain products from Germany and the Netherlands (G/SPS/N/ARG/41). However, in light of the information provided by the European Union, Argentina had since lifted these measures (G/SPS/N/ARG/41/Add.1).

Animal Health

193. General import restrictions due to BSE

Raised by:	European Union
Supported by:	Canada, Japan, Korea, Switzerland, United States, Uruguay
Dates raised:	June 2004 (G/SPS/R/34, paras. 37-38), October 2004 (G/SPS/R/35, paras. 85-86), June 2005 (G/SPS/R/37/Rev.1, paras. 75-76), February 2007 (G/SPS/R/44, para. 29), October 2008 (G/SPS/R/53, paras. 24-28), February 2009 (G/SPS/R/54, paras. 11-12), June 2009 (G/SPS/55, para.

	47), October 2009 (G/SPS/R/56, para. 46), March 2010 (G/SPS/R/56, paras. 35-36), June 2010 (G/SPS/R/59, para. 44), October 2010 (G/SPS/R/61, para. 24), March 2011 (G/SPS/R/62, para 65), June 2011 (G/SPS/R/63, paras. 73-74), October 2011 (G/SPS/R/64, paras 98-99)
Relevant document(s):	Raised orally.
Solution:	Partial solution notified
Status:	Partially resolved
Date reported as resolved:	

318. In June 2004, the European Communities raised concerns about unjustified import restrictions on EC exports due to concerns about BSE. To satisfy consumer demands, the European Communities had adopted comprehensive measures to address risks relating to BSE. These measures applied both to products intended for consumption within the European Communities, and to those destined for export. The system of geographical assessment used in the European Communities had successfully identified countries in which the disease was still present. The European Communities called on other countries to replace import bans, which exceeded OIE recommendations and yet did not fully address potential internal risks, with specific import requirements in accordance with OIE standards. Many products, such as semen, embryos and dairy products could be traded with predefined guarantees. Members were urged to take into consideration OIE recommendations for international trade and to stop discriminating among Members with similar BSE conditions.

319. Canada recalled that at its last meeting the OIE had reconfirmed that some products, such as semen, embryos, hides, and milk, did not contribute to the transmission of BSE. Hence the imports of these types of products did not provide a potential pathway for introduction of the disease.

320. In October 2004, the European Communities informed the Committee that several WTO Members had reviewed their bans on EC beef and small bovine ruminant products and replaced them with specific requirements in accordance with OIE standards. The European Communities urged all those Members who had not yet done so to align their regulations in accordance with OIE standards. The United States noted that some Members were reviewing their import restrictions on US beef and also urged all those Members who had not done so to align their regulations in accordance with OIE standards.

321. In June 2005, the European Communities reported that the number of countries that had lifted their respective bans on EC bovines and bovine products in accordance with OIE standards had been regularly growing, including also non-Members of the WTO. According to the revised BSE chapter of the Terrestrial Animal Health Code, many bovine derivated products, including deboned skeletal muscle and blood products, could be safely traded regardless of the BSE status of the exporting country. The European Communities invited the remaining WTO Members to replace their import bans with specific import requirements in accordance with OIE standards.

322. In February 2007, the United States expressed concern that US ruminant and non-ruminant products continued to face BSE-related restrictions. Although there had been some progress and a number of Members had removed measures, US products continued to face overly restrictive measures which exceeded the OIE standards. The United States had undertaken extensive surveillance and put in place interlocking safeguards, nonetheless many restrictions remained in place. The United States asked Members to review the evidence now available and to revise their requirements accordingly.

323. In October 2008, the European Communities recalled the concerns previously raised by Canada regarding Korea's restriction on beef imports. The European Communities also had concerns

regarding restrictions maintained by other WTO Members on beef exported from the European Communities even though these beef products were considered safe and in compliance with the BSE chapter of the OIE Terrestrial Animal Health Code.

324. Canada shared the EC concerns and asked Members to base their measures on the BSE chapter provisions of OIE Terrestrial Animal Health Code. In May 2007, Canada was officially recognized by the OIE as controlled-risk for BSE and this was reconfirmed in May 2008. Canada was grateful to the increasing number of WTO Members that restored full or partial access for beef and cattle. The representative of Canada urged other Members to resume full trade in beef and cattle based on the OIE designation.

325. Uruguay supported the concerns of the European Communities and Canada. With regard to animal health regulations applied to trade, Uruguay stated that all WTO Members should conform to the OIE designation and to the standards of the three sisters in general.

326. Switzerland supported the EC concern on restrictions due to BSE.

327. The representative of the OIE urged Members to abide by the standards enacted by the OIE.

328. In February 2009, the European Communities drew attention to the OIE standard for BSE, which did not recommend trade restrictions on de-boned beef from animals aged less than 30 months. The European Communities met this standard, but its exports were still facing trade restrictions. National restrictions maintained despite the OIE Code undermined this standard that had been adopted after long negotiations, thus damaging the credibility of the OIE. The OIE was planning to update the Code, because there was compelling evidence that the age requirement was not necessary, but the European Communities questioned whether this was worthwhile if Members did not apply the standard in any case. Trade in beef was important, and BSE issues were among the concerns most frequently raised in the SPS Committee. The European Communities appealed to Members to make greater efforts to base their measures on the relevant OIE standards. Jordan was now accepting the OIE Code, as did the European Communities, and others should follow this example.

329. OIE explained that the BSE standards had been democratically adopted by OIE members, and were in fact very conservative. The OIE was considering removing the age requirement, and relaxing the restrictions on gelatine. There was still a wide margin of safety built into the standards, and it was worrying that there was a lack of willingness on the part of Members to apply them.

330. In June 2009, the European Communities again drew attention to restrictions on bovine meat and related products still imposed by many Members. The European Communities requested that unjustified and discriminatory restrictions be removed. The OIE Code stated that no bans were necessary even if a country reported cases of BSE. EC measures to control BSE were exemplary and went far beyond OIE requirements, and the European Communities urged Members to establish fair, non-discriminatory and transparent rules for the import of bovine products.

331. In October 2009, the European Communities recalled that they had repeatedly raised concerns about unjustified restrictions by some WTO Members on imports of bovine, ovine and related products allegedly in response to transmissible spongiform encephalopathy. Any measures should be based on the relevant international standards. While were aligning their processes to OIE recommendations, other Members still required unnecessary certification, applied burdensome and lengthy procedures and discriminated between countries without scientific basis. EC measures to eradicate and control BSE were comprehensive and offered every guarantee that EC exports were safe. Finally, the European Communities urged Members to fully take into consideration the latest OIE BSE guidelines and to establish fair, non-discriminatory and transparent rules.

332. In March 2010, the European Union reported that certain WTO Members still maintained unjustified import restrictions arguably to protect against Transmissible Spongiform Encephalopathies (TSE). The European Union urged Members to lift any unnecessary, disproportionate, or discriminatory restrictions which negatively affected EU exports. The OIE recommendations on BSE, which were reviewed in May 2009, included the possibility to import meat or even live animals from countries having a "negligible", "controlled", or "undetermined" BSE risk status, as long as the OIE rules on surveillance and control were followed. In addition, for certain products under specific conditions, such as de-boned skeletal muscle meat, milk and milk products, semen and embryos there should be no BSE import requirements regardless of the BSE risk or the age of the cattle population of the exporting country, zone or compartment.

333. Switzerland supported the concerns raised by the European Union, stating that WTO Members should base their measures on the OIE recommendations and available data on BSE.

334. In June 2010, the European Union reported that certain WTO Members still maintained unjustified import restrictions to protect against Transmissible Spongiform Encephalopathies (TSE). The European Union urged Members to lift any unnecessary, disproportionate, or discriminatory restrictions which negatively affected EU exports. The European Union recalled that OIE had issued BSE standards based on scientific risk assessments and defined the conditions under which commodities could be safely traded. In May 2010, additional wording was inserted in Article 11.6 of the OIE - Terrestrial Animal Health Code to clarify that, providing the commodities had been imported in accordance with those conditions, the status of the importing countries would not be affected. The European Union recalled that according to OIE recommendations, it is possible to import meat or even live animals from countries having a "negligible", "controlled", or "undetermined" BSE risk status, as long as OIE rules on surveillance and control were followed. In addition, for certain products under specific conditions, such as de-boned skeletal muscle meat, milk and milk products, semen and embryos, there should be no BSE import requirements regardless of the BSE risk or the age of the cattle population of the exporting country, zone or compartment. The representative of the European Union stated that some Members had recently announced new measures which, without any scientific justification, deviated from OIE standards. The European Union urged Members to align themselves with the OIE process and to process applications from the European Union.

335. In October 2010, the European Union noted that restrictions of imports due to BSE remained of great concern and urged Members to lift any unnecessary, disproportionate and discriminatory restrictions. A number of WTO Members continued to impose unjustified import restrictions, such as allowing imports only from countries that had a negligible risk status according to the OIE classification or where no cases of BSE had been notified at all. There had been, however, some positive developments. The Philippines had announced the lifting of import restrictions on beef from most of EU member States, and Egypt was now allowing imports of de-boned beef from animals younger than 48 months. The European Union urged Members to quickly align their requirements with the OIE standards, and to establish fair, non-discriminatory, transparent and scientifically sound import requirements.

336. In March 2011, the European Union urged Members to lift unnecessary restrictions negatively affecting EU beef exports. The OIE standard highlighted that there should not be restrictions on some bovine products regardless of the BSE-risk status of the country. Unfortunately, several unjustified restrictions from Members only allowed imports from countries with a negligible BSE-risk assessment. In addition, there had also been a number of discriminatory practices and inconsistencies in the level of protection of some countries. The European Union urged Members to align their requirements with OIE standards and acknowledged the many countries that had started the assessment process to allow imports.

337. In June 2011, the European Union expressed concerns that several Members had not yet implemented the OIE standard on BSE and continued to impose bans or trade restrictions on EU beef products. These Members should either implement the OIE standard, or else share their scientific risk assessment. To date, the European Union had not seen any scientific justification for restrictions that went beyond the OIE standards. The European Union welcomed the implementation of the OIE standards by several Members, as well as the process begun by the United States and Australia, which would eventually allow the import of EU beef products. The European Union urged Members to fully take into account the OIE standards and establish fair, non-discriminatory, transparent, and scientifically based rules.

338. Canada was pleased to note that a large number of Members had approved the import of Canadian beef based on the OIE standards, and joined the European Union in asking Members to base their measures on OIE standards.

339. In October 2011, the European Union remained concern that several Members continued to impose bans or restrictive conditions on products from EU member States allegedly because of BSE, but without respecting the international standards as required by the SPS Agreement. The OIE standard on BSE was very well developed and provided details regarding the disease and conditions for the safe trade of bovine products. This meant that there was no need for additional risk assessments or for any trade restrictions at all on the well-defined safe products, such as deboned meat, regardless of the BSE risk status of the country. Despite having raised this same concern for a long time, no one had ever provided a scientific risk assessment that would justify any deviation from the international standard. In this regard, the European Union urged, in particular, China, Japan and South Korea to bring their requirements into line with the international standard and the SPS Agreement. The European Union welcomed recent developments in Australia and urged Australia to finalize this process quickly. The United States was also moving towards the adoption of comprehensive BSE rules and the European Union expected to see this process rapidly lead to US requirements fully in line with the OIE standard and a tangible outcome for trade. The European Union urged all Members to fully align their BSE-related requirements with the OIE standards and thus establish fair, non-discriminatory, transparent and scientifically justified requirements.

340. Japan and Korea both expressed their understanding of the EU concern and indicated that they would continue discussions on this issue in bilateral meetings. China indicated that it sought further information from the European Union in order to finish its risk analysis. There was a successful dialogue between both Members, and China called on the European Union to provide further information and maintain its close relationship with the Chinese scientific panel.