# WORLD TRADE ORGANIZATION

RESTRICTED

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**Committee on Sanitary and Phytosanitary Measures**

## SPECIFIC TRADE CONCERNS

Note by the Secretariat

Revision

At the 15-16 March 2000 meeting of the SPS Committee, the Secretariat was requested to prepare a paper summarizing the specific trade concerns that had been brought to the Committee's attention.[1] This second revision includes all issues which have been raised at SPS Committee meetings through the twenty-second regular meeting of the Committee on 31 October – 1 November 2001.

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

Resolution of the specific concerns raised has been explicitly reported to the Committee for a limited number of matters only. These are noted in the summary table at the beginning of each item. Prior to the October 2001 Committee meeting, the Secretariat brought to the attention of Members those issues for which no new information had been provided during 2001. Several Members responded by providing an update at the October 2001 meeting, and these updates have been included in this revision.[2] Members are encouraged to inform the Committee of the current status of all trade concerns identified in this document.

[1] G/SPS/R/18, para. 20.
[2] G/SPS/R/25, paras. 32-37.

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# I. FOOD SAFETY

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

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|---|---|
| Raised by: | Philippines |
| Supported by: | Malaysia |
| Dates raised: | September 1998 (G/SPS/R/12, paras. 83-85), November 1998 (G/SPS/R/13, paras. 24-25), July 1999 (G/SPS/R/15, para. 68), June 2000 (G/SPS/R/19, para. 21), October 2001 (G/SPS/R/25, para. 36) |
| Relevant document(s): | G/SPS/GEN/106; see also G/SPS/13, G/SPS/GEN/137 and G/SPS/W/107/Rev.1 |
| Solution (if reported): | Australian tolerance level modified in June 2000. In October 2001, the Philippines confirmed that sauces were no longer being detained. |

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

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

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

4. In October 2001, the Philippines confirmed that Australia had modified the tolerance level for benzoic acid in sauces, and that detention of Philippine sauces in Australia due to benzoic acid had not been noted in Hold Order Lists since June 2000.

## 2. Australia and New Zealand – Import restrictions on cheese

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

5. In June 1998, Switzerland reported that, without advance notice, New Zealand and Australia had stopped imports of hard cheeses made from unpasteurized milk, on the grounds that they did not meet the sanitary requirements. Australia and New Zealand responded that the relevant import measure required inactivation of pathogenic organisms. This measure had been put in place before

1 January 1995 and therefore not been notified, but compliance had recently been reinforced. ANZFA was evaluating the applications received from Switzerland and the European Communities.

6. In November 1998, the European Communities requested Australia to identify the international standard on which its import ban on Roquefort cheese was based, or to provide scientific justification and a risk assessment. Australia responded that its food standards required all cheese to be made from pasteurized milk, or milk that had undergone an equivalent process. Australia's risk assessment on Roquefort cheese had identified potential problems with pathogenic micro-organisms, in particular entero-hemorrhagic E-coli. Further data from the Roquefort manufacturers had been received and were being evaluated. In addition to food safety assessments, Roquefort cheese was being evaluated for risks to animal health. Draft revised import conditions would be notified soon, and comments solicited. A final decision was likely in the first quarter of 1999 on both food safety and animal health aspects.

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

### 3. Belgium - Measures regarding canned tuna in oil

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

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

### 4. Brazil - Import requirements for wine

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

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

consumer, and planned to present written comments to Brazil once an SPS notification had been made.

10. In March 1997, the European Communities questioned Brazil's measure on wine exports, notified as G/SPS/N/BRA/13/Rev.1 on 6 February 1997, stating that it was not clear what requirements producers faced. The European Communities questioned whether inspection requirements for individual establishments were based on science, and expressed concern over certification requirements for individual consignments rather than more general, generic types of certification. Brazil noted that the proposed legislation would not be adopted before 16 May 1997, and that the full text of the proposed legislation was available from the Brazilian Enquiry Point. Although Brazil insisted that its legislation was in conformity with the SPS Agreement, and not substantially different from legislation in place in several European countries, it was open for bilateral discussions on the subject.

### 5. Canada - Importation of cheese

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

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

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

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|---|---|
| Raised by: | United States |
| Supported by: | |
| Dates raised: | October 1996 (G/SPS/R/6, paras. 18-25), March 1997 (G/SPS/R/7, paras. 52-53), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GN/3, G/SPS/N/CZE/8, G/SPS/GEN/265 |
| Solution (if reported): | |

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

13. The Slovak Republic responded that it did not apply a zero-tolerance standard, but rather required ante- and post-mortem treatment of slaughter poultry, for domestic and imported poultry meat. The Czech Republic clarified that its regulations required negative results on *salmonella* tests in poultry holdings and slaughterhouses. Czech requirements were laid out in the Draft Law on

Foodstuff and Tobacco Products to be adopted in 1997, notified as G/SPS/N/CZE/8. No assurances had been received from the United States that these requirements would be met. The Czech Republic suggested bilateral consultations between veterinary experts. The representatives of Honduras and El Salvador indicated that they would inform their authorities of the statement made by the United States.

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

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

16. In July 2001, the United States reported that it was still discussing the matter with Chile (G/SPS/GEN/265).

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

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

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

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

19. In March 1999, Thailand and the Czech Republic reported that bilateral consultations were progressing, and that the problem might be resolved after a visit of Czech experts to Thailand,

planned for April 1999. In July 1999, Thailand reported that the visit of Czech experts had been re-scheduled for September 1999. The Czech Republic confirmed that consultations were advancing. In November 1999, the Chairman informed the Committee that the Czech Republic had recently notified the lifting of the measure from 1 October 1999.

### 8. Egypt - Restrictions on canned tuna

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

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

### 9. European Communities - Regulations on genetically modified food and feed

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|---|---|
| Raised by: | United States |
| Supported by: | Argentina, Canada |
| Dates raised: | October 2001 (G/SPS/R/25, paras. 40-44) |
| Relevant document(s): | G/TBT/N/EEC/6 and 7 |
| Solution (if reported): | |

21. The United States expressed concerns that the EC proposals on traceability and labelling of agricultural biotechnology products had been notified only under the TBT Agreement and not the SPS Agreement, although the proposals made it clear that they were intended to address unforeseen adverse effects to human and animal health. Canada and the United States sought clarification as to whether the draft regulations covered food safety or human health. Argentina noted that genetically modified food did not affect health, and that the compulsory labelling required by the proposed EC regulation was not consistent with the TBT Agreement. Argentina sought clarification as to whether the labelling requirements extended to pharmaceutical products for human or animal use.

22. The European Communities observed that requests to prolong the consultation period had been accepted and this period would run until the end of the year. The main objective of the proposed regulations was to ensure that consumers were duly informed of the products they bought. Two other key issues were traceability and labelling. The labelling of pharmaceuticals containing GM ingredients was covered by different legislation. The European Communities stated that discussions should continue in the TBT Committee.

### 10. European Communities - Directive 2000/42 on pesticide residues

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|---|---|
| Raised by: | Côte d'Ivoire |
| Supported by: | |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 136-137) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

23. Côte d'Ivoire expressed concern regarding new EC maximum residue levels (MRLs) for pesticides in fruits and vegetables, which would affect Côte d'Ivoire's exports of pineapples, mangoes, papayas, cashew nuts, passion fruits and green beans. Small farmers in Côte d'Ivoire would be affected. The MRLs did not seem to be consistent, or to be based on a pertinent risk assessment, for example in the case of Ethephon. Technical questions posed in April 2001 through different channels had remained without answer. Although technical assistance for pineapple production was planned, it had not been carried out before the entry into force of the EC directive. Côte d'Ivoire requested waivers from the EC directive. Once the planned technical assistance had been carried out, adequate MRLs could be set with the collaboration of Codex. The European Communities recalled that one year ago the Committee had been informed of an EC decision to delay for one year the application of a series of MRLs for ACP countries. The year had now passed, and the directive was being implemented. Special and differential treatment had not solved the problem. For discontinued substances, the MRLs were set at detection levels; this was international practice. The European Communities would consider Côte d'Ivoire's request.

### 11. European Communities - Legislation on the fungicide thiabendazole (TBZ)

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|---|---|
| Raised by: | Israel |
| Supported by: | |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 128-129) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

24. Israel was concerned that legislation being considered by the European Parliament would ban fungicide residues in fruit juices, although they were considered safe according to Codex standards. Israel saw no scientific justification for banning the use of these fungicides, and believed this would create unnecessary trade barriers. Israel had raised both with the European Communities and with Germany a problem regarding German law which restricted residues of TBZ and Imazalil in citrus juices to such low levels that in effect this constituted a ban. Israel requested a clarification regarding the EC position on the European Parliament initiative. The European Communities explained that the European Parliament could introduce amendments to Commission proposals, and that Israel would be kept informed of the situation.

### 12. European Communities - Import restrictions on soy sauce

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|---|---|
| Raised by: | Thailand on behalf of ASEAN |
| Supported by: | Korea |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 36-39), July 2001 (G/SPS/R/22, paras. 11-14), October 2001 (G/SPS/R/25, para. 106) |
| Relevant document(s): | G/SPS/N/EEC/100 |
| Solution (if reported): | |

25. In March 2001, Thailand, on behalf of ASEAN, raised concerns with an EC regulation which set new maximum levels for lead, cadmium, mercury and 3-MPCD in foodstuffs. ASEAN believed

that the EC maximum level of 3-MCPD in soy sauce was too low to be practicable, and constituted an unnecessary barrier to trade. ASEAN asked the European Communities to provide technical information in order to reach a mutually satisfactory solution. Korea asked to be informed about the outcome of bilateral consultations between the European Communities and Thailand. The European Communities stated that several of its member States had detected high levels of 3-MCPD in samples of soy sauce. Recent toxicological studies had indicated that the substance acted as a non-genotoxic carcinogen *in vivo*. The European Communities believed that maximum levels should be set to encourage good manufacturing practices and to protect the health of consumers. A proposed Commission Regulation set such limits, and was currently under examination. Thailand had been informed of the 3-MCPD levels reported in soy sauce from one manufacturer, but had not responded.

26. In July 2001, the European Communities informed the Committee that the Scientific Committee of Food had recently revised its opinion on 3-MCPD in light of new toxicological information, concluding that 3-MCPD was not genotoxic in humans. A tolerable daily intake had been set at 2 µg per kg of body weight. A maximum level for 3-MCPD, to take effect in April 2002, had been set at 0.02 mg/kg for both hydrolized vegetable protein and soy sauce. However, in light of the new scientific opinion, the European Communities would consider whether the current maximum level remained appropriate. The United States indicated that the Joint FAO/WHO Expert Committee on Food Additives (JECFA) had re-evaluated the safety of chlorinated propanols, and concluded that a person should not consume more than 120 mg/day of these contaminants. The Codex representative added that the need to establish maximum levels for these contaminants would be considered by JECFA in March 2002.

27. In October 2001, Thailand indicated that it had taken measures to establish maximum 3-MCPD limits and to modify production processes to lower rates of contamination; its industry expected to be able to meet a 1 mg/kg limit within one year. JECFA had set a provisional maximum daily threshold level at 2 micrograms/kg of body weight per day. Based on this limit for a person of 50 kg bodyweight, a safe daily consumption of up to 10 g should be allowable. However, Thailand noted that the limits applied by Members differed widely.

### 13. European Communities - Information on dioxin

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

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

29. Malaysia expressed disappointment to be receiving information at such a late stage. It would only be in a position to lift its import ban when it was fully satisfied that there was no more danger from EC products. Australia, Canada, Chile, Brazil, South Africa and the United States appreciated the information provided by the European Communities throughout the dioxin crisis. Australia and the United States had notified any action taken with respect to dioxin. Canada had banned Belgian

imports, but was reviewing the products and areas covered by the ban. The Philippines indicated that its measures had taken into account the EC measures regarding dioxin, and were being reassessed.

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

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

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

### 14. European Communities - Measures on food treated with ionizing radiation

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|---|---|
| Raised by: | United States |
| Supported by: | |
| Dates raised: | September 1998 (G/SPS/R/12, paras. 37-38), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/N/EEC/61, G/SPS/GEN/265 |
| Solution (if reported): | |

33. In September 1998, the United States sought clarification on the EC measure on food and food ingredients treated with ionizing radiation. The United States was taking similar steps towards recognizing that this technology could play a role in ensuring the wholesomeness and safety of food, and had sent official comments to the European Communities. However, the United States emphasized that the list of products provided in an annex to the EC directive should be expanded to cover other food products such as pork, beef, poultry, fruits and vegetables. The United States also requested explanation of how the approval process for treatment facilities worked. The European Communities indicated that the US suggestions would be forwarded to the competent EC services.

34. In a document introduced in July 2001, the United States reported that two EC directives on food irradiation had been adopted in 1999 (G/SPS/GEN/265). So far, only dried aromatic herbs, spices and vegetable seasonings had been included in the positive list. One of the directives required that the Commission draft a proposal by 31 December 2000. The Commission had published a consultation paper, describing a possible strategy for expanding the positive list. After considering comments, the Commission would submit the paper to the Council and the European Parliament. The United Stated had sent comments on the consultation paper in January 2001, requesting that all foods which received a favourable opinion from the Scientific Committee for Food be included in the positive list. The United States had also requested information on how additional foods could be added to the positive list.

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

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|---|---|
| Raised by: | Brazil |
| Supported by: | |
| Dates raised: | September 1998 (G/SPS/R/12, paras. 49-50), October 2001 (G/SPS/R/25, para. 34) |
| Relevant document(s): | G/SPS/N/EEC/62 |
| Solution (if reported): | Brazil reported in October 2001 that the emergency measures had been lifted. |

35. In September 1998, Brazil expressed concerns regarding EC emergency notification G/SPS/N/EEC/62, which mentioned very high levels of dioxin found in citrus pulp pellets from Brazil. Brazil pointed out that this accident had already been fully dealt with. Brazilian authorities were maintaining bilateral talks with the European Communities on the subject. The European Communities explained that this accident had involved 90 000 tonnes of contaminated citrus pulp pellets destined for animal feed. After scientific discussions, including Brazil's private sector, the EC authorities had decided that the lack of information on the origin of the contamination, the amount of stocks involved and the lack of a solution justified the emergency measure. The European Communities hoped that ongoing contacts with the Brazilian authorities would result in a solution before the end of the year.

36. In October 2001, Brazil reported that following two technical visits by EC officials to evaluate Brazilian control systems, the emergency measures on dioxin in citrus pulp had been lifted.

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

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|---|---|
| Raised by: | United States |
| Supported by: | Argentina |
| Dates raised: | June 1998 (G/SPS/R/11, paras. 50-56), September 1998 (G/SPS/R/12, paras. 35-36), July 2001 (G/SPS/R/25, para. 127) |
| Relevant document(s): | G/SPS/N/EEC/58, G/SPS/GEN/88, G/SPS/GEN/265 |
| Solution (if reported): | |

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

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

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

40. In July 2001, the United States reported that it did not require or support registration of animal feed establishments and considered the issue to still be unresolved (G/SPS/GEN/265).

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

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|---|---|
| Raised by: | Argentina, Australia, Bolivia, Brazil, The Gambia, India, Indonesia, Malaysia, Philippines, Senegal, Thailand |
| Supported by: | Canada, Colombia, Mexico, Pakistan, Paraguay, Peru, Philippines (ASEAN), South Africa, Turkey, United States, Uruguay |
| Dates raised: | March 1998 (G/SPS/R/10, paras. 24-31), June 1998 (G/SPS/R/11, paras. 15-19), September 1998 (G/SPS/R/12, paras. 11-14), November 1998 (G/SPS/R/13, para. 26), March 1999 (G/SPS/R/14, paras. 64-66), March 2001 (G/SPS/R/21, paras. 29-30 and 86-87), July 2001 (G/SPS/R/22, paras. 39-43), October 2001 (G/SPS/R/25, paras. 27-31) |
| Relevant document(s): | G/SPS/N/EEC/51, G/SPS/GEN/50, G/SPS/GEN/52, G/SPS/GEN/54, G/SPS/GEN/55, G/SPS/GEN/56, G/SPS/GEN/57, G/SPS/GEN/58, G/SPS/GEN/61, G/SPS/GEN/62, G/SPS/GEN/63, G/SPS/GEN/93 |
| Solution (if reported): | Maximum levels for some products and sampling procedures revised. |

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

42. The European Communities noted that there had been no consensus in the CCFAC on the issue; although many countries supported the Codex norm, the European Communities did not. The proposed measure reflected the EC level of protection. With regard to the sampling procedure, since contamination appeared in a small percentage of kernels, one simple sample was not sufficient to minimize risk to consumers. The proposed methods were already used by some EC member States. The European Communities planned to evaluate the comments received until May 1998 and formalize the proposal in June 1998. The measure would enter into effect relatively shortly afterwards.

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

44. In September 1998, Bolivia informed the Committee that the proposed EC measure would have severe effects on Bolivian exports of Brazil nuts. Bolivia requested to see the EC risk

assessment, and indicated it was prepared to enter into bilateral discussions with the European Communities in order to find a mutually agreeable solution. The United States encouraged the European Communities to take into account the recommendations contained in the FAO/WHO risk assessments establishing maximum levels for aflatoxin in consumer-ready products. The ASEAN countries expressed concern with maximum levels in milk, which would affect developing countries' feed exports.

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

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

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

48. In March 2001, Argentina raised concerns over EC maximum levels of contaminants in food products and sampling methods for aflatoxins in peanuts, other nuts, dried fruits and cereals. Argentina was preparing a technical submission for the European Communities to be circulated before the next SPS Committee meeting. The European Communities agreed to carefully consider the technical document. Regarding cereals, the European Communities reminded Members that the relevant legislation had been adopted in 2000 and would come into effect as of 1 July 2001.

49. Bolivia recalled the information it had provided regarding EC aflatoxin levels in Brazil nuts (G/SPS/GEN/93). The European Communities had not provided a risk analysis for this measure. Bolivia outlined the socio-economic and ecological implications of the measure for the area of production, as well as the effects on the economy. The European Communities indicated that the science had been explained in detail in the Committee. An EC expert had visited Bolivia in May 2000 to evaluate the situation. The Commission believed that the problems in Bolivia stemmed from needed improvements in the production chain and the equipment used. A project to address these issues had been included in the EU Aid Programme.

50. In July 2001, Bolivia expressed concern about the long time it was taking to resolve the issue. Argentina and Chile inquired about the technical assistance and special and differential treatment aspects of the issue. The European Communities noted that Bolivia was on a high priority list for EC cooperation activities. The expert mission in May 2000 had concluded that Bolivian products had been meeting EC aflatoxin levels, and at least three private laboratories were equipped to carry out accurate tests. The European Communities remained willing to discuss technical difficulties and to

agree on practical solutions. The European Communities was promoting a project to improve production and storage processes and the livelihood of nut collectors, to be executed in 2002; it had proposed a certification procedure and hoped that Bolivia recognized the efforts being made to improve Brazil nut production in the region concerned. Bolivia confirmed that bilateral meetings had taken place, including a discussion on possible technical cooperation programmes. However, so far no practical measures had been taken to reduce the negative effect on trade.

51. In October 2001, Bolivia reported that the European Communities still had not presented a risk analysis to justify its maximum levels for aflatoxins in Brazil nuts, nor applied special and differential treatment or justified why higher levels were permitted in similar products. The measure was having a severe effect on the Bolivian economy. Promises of technical assistance were not beneficial, and Bolivia wished to see a solution based on acceptance by the European Communities of a certificate. The European Communities indicated that prolonged bilateral consultations had taken place prior to the entry into force of the measure, and that expected trade concerns had not materialized. The risk assessment had been discussed on numerous occasions in the SPS Committee and in JECFA. EC technical assistance had the goal of ensuring compliance with EC standards. A national certification and accreditation mechanism was being implemented which would allow the three Bolivian laboratories to issue internationally recognized certificates. However, no follow-up information had been received from Bolivia on this possible solution.

### 18. European Communities – Trade restrictions in response to cholera

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

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

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

### 19. Iceland's notification on meat and meat products

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

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

### 20. Korea – Import ban on frozen poultry

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

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

56. In March 1998, Thailand indicated that it had submitted the requested information. It sought clarification whether the measure was based on an international standard or on a risk assessment, particularly in light of information made available by the WHO working group on food-borne listeriosis, which indicated that listeriosis had a very low incidence in Asia. Korea responded that its measure was not a ban, but that consignments had been rejected.

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

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

## 21. Korea – Shelf-life requirements

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| Raised by: | Australia, Canada, United States |
| Supported by: | Argentina, European Communities |
| Dates raised: | June 1995 (G/SPS/R/2, paras. 39-40), November 1995 (G/SPS/R/3, paras. 7-8), May 1996 (G/SPS/R/5, paras. 42-44), March 1997 (G/SPS/R/7, paras. 20-21), July 1997 (G/SPS/R/8, paras. 8-9), October 1997 (G/SPS/R/9/Rev.1, paras. 6-7), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/N/KOR/9, G/SPS/W/27, G/SPS/W/41, G/SPS/W/43, G/SPS/GEN/40, G/SPS/GEN/265 |
| Solution (if reported): | The United States and Korea held formal consultations under dispute settlement (W/DS5), and notified a mutually agreed solution in July 1995. In July 2001, the United States indicated that the problem was resolved.<br>Canada initiated formal dispute settlement (W/DS20), and a mutually satisfactory solution was notified in April 1996. |

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

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

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

62. In May 1996, Australia expressed serious concern with regard to Korea's shelf-life regulations on ultra heat treated milk in consumer packs (UHT milk), which remained government mandated at a period substantially shorter than that applied in most countries. Australia was unaware of any scientific justification for this limited shelf-life period, and requested Korea to permit a manufacturer-determined shelf life by 1 July 1996. Korea took note of these concerns.

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

64. In July 1997, Australia noted that Korea had not provided any justification for its non-acceptance of manufacturer-determined shelf life, and requested an explanation in accordance with Article 5.8. Korea indicated that manufacturer-determined shelf life would be applied to UHT milk

before the end of 1998. In October 1997, Australia indicated that it had not received a satisfactory answer from Korea. Korea replied that it was reviewing the possibility of extending the current mandatory shelf-life period for UHT milk even before manufacturer-determined shelf life applied at the end of 1998.

65. In July 2001, the United States indicated that it considered the trade concern to be resolved (G/SPS/GEN/265).

### 22. Malaysia and Singapore - Notifications related to dioxin

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

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

### 23. Panama - Restrictions on milk powder imports

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| Raised by: | European Communities |
| Supported by: | |
| Dates raised: | November 2000 (G/SPS/R/20, paras. 15-16), July 2001 (G/SPS/R/22, para. 135) |
| Relevant document(s): | G/SPS/GEN/220 |
| Solution (if reported): | |

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

68. In July 2001, Panama informed the Committee that it had provided responses to the EC questions regarding powdered milk from Denmark. In these responses, Panama reiterated that it applied the same sanitary measures to domestic and imported products. The European Communities indicated that the Commission would study the answers and report back to Panama.

### 24. Poland - Requirements for imports of milk and milk products

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

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

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

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| Raised by: | United States |
| Supported by: | Argentina |
| Dates raised: | October 1996 (G/SPS/R/6, paras. 16-17), March 1997 (G/SPS/R/7, para. 56), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/265 |
| Solution (if reported): | In July 2001, the United States indicated that it was not experiencing any problems, and was continuing to monitor the situation. |

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

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

72. In July 2001, the United States reported that it was not experiencing any problems in the area and was continuing to monitor the situation (G/SPS/GEN/265).

### 26. Switzerland - Notifications regarding import requirements on meat and eggs

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| Raised by: | United States |
| Supported by: | Australia, Brazil, Canada, Chile, Hungary, India, Israel, New Zealand |
| Dates raised: | September 1998 (G/SPS/R/12, paras. 39-41), November 1998 (G/SPS/R/13, paras. 29-30), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/N/CHE/14 and Corr.1, G/SPS/N/CHE/15, G/SPS/N/CHE/16, G/SPS/GEN/265 |
| Solution (if reported): | |

73. In September 1998, the United States expressed concern that Swiss regulations on meat from animals treated with hormones, antibiotics and similar products imported under the Swiss tariff rate quota (TRQ) were not based on science or risk assessment. The fact that different requirements were applied to meat imported outside the tariff rate quota called into question the validity of the alleged public health objective behind the regulation. The United States indicated it was preparing formal comments and encouraged other Members to carefully consider the implications of the notified measure. Canada noted that the purpose of the measure was consumer information, yet the measure did not make it clear if labelling was carried through to the retail level. Switzerland noted that thirty days were left of the comment period, and that all comments made would be taken into account when drafting the final proposal.

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

75. In July 2001, the United States indicated that it considered the issue unresolved (G/SPS/GEN/265). Switzerland had notified amended measures under the TBT Agreement, on which the United States had formally commented.

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

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

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

consideration of equivalence, and indicated that answers to the more technical questions would be provided in due course.

## II. ANIMAL HEALTH AND ZOONOSES

### A. ISSUES RELATED TO TSEs

### 28. Argentina, Australia, Canada, Korea, New Zealand, United States - Import restrictions affecting BSE-free countries

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| Raised by: | Bulgaria, Croatia, Czech Republic, Estonia, Latvia, Poland, Romania, Slovak Republic, Slovenia |
| Supported by: | European Communities, United States |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 18-25), July 2001 (G/SPS/R/22, para. 48) |
| Relevant document(s): | G/SPS/GEN/247, G/SPS/N/ARG/59, G/SPS/N/AUS/125, G/SPS/N/CAN/94, G/SPS/N/KOR/83, G/SPS/N/NZL/77, G/SPS/N/USA/379 |
| Solution (if reported): | |

77. On behalf of a group of countries (see table above), Romania drew attention to a number of emergency notifications banning imports of certain animal products from countries that were BSE-free. These measures violated the SPS Agreement since they were not based on a proper risk assessment. The affected countries were willing to provide the necessary documentation of their BSE-free status. The European Communities added that testing or suspension of imports of milk, dairy products, collagen and gelatine for BSE was not in conformity with OIE guidelines, and requested Members to adapt their requirements to the international standard. The United States affirmed that BSE-related measures must be based on science and international standards. The United States, although BSE-free, had also been affected by import restrictions, some of them imposed by countries sponsoring the statement presented by Romania. The United States had provided evidence on its freedom from BSE, its surveillance system and control measures to interested trade partners, and required similar data from countries that may pose a BSE risk. The United States looked forward to receiving the necessary information to assess the risks involved.

78. New Zealand and Australia were concerned over the increase in known incidence of the disease in Europe as a result of intensified testing, and had issued emergency food standards to protect public health. They were developing permanent measures, which would be notified to allow for comments from interested Members. Canada had not recognized any of the countries of the joint declaration as BSE-free, and would evaluate individual countries based on a risk assessment as soon as the necessary information was received. Korea indicated that a temporary measure had been introduced because of the increased prevalence of BSE in Europe. Korea would seek the additional information necessary for a more objective assessment of the risks involved. Argentina indicated that its emergency measure was based on the scientific information available at the time, and stressed that any new information received would be considered. Bulgaria pointed out that according to Article 5.7 Members were obliged to request additional information when temporary measures were implemented. Brazil reaffirmed Members' right to go beyond international guidelines based on a risk assessment, but stressed that this should only take place once the necessary information had been provided.

79. In July 2001, Bulgaria reiterated its concern regarding import restrictions affecting BSE-free countries.

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

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|---|---|
| Raised by: | European Communities |
| Supported by: | Switzerland, South Africa |
| Dates raised: | March 1999 (G/SPS/R/14, paras. 17-18), July 1999 (G/SPS/R/15, paras 23-24), November 2000 (G/SPS/R/20, paras. 26-28), July 2001 (G/SPS/R/22, paras. 44-46), October 2001 (G/SPS/R/25, paras. 18-19) |
| Relevant document(s): | G/SPS/N/ARG/37, G/SPS/N/ARG/38, G/SPS/N/ARG/47, Corr.1 and Rev.1, G/SPS/GEN/114, G/SPS/GEN/131, G/SPS/GEN/135 |
| Solution (if reported): | Measure revised and notified (G/SPS/N/ARG/47/Rev.1). |

80. In March 1999, the European Communities noted it had been unable to obtain the text of Argentina's measure on bovine semen imports, and was submitting a series of questions. Argentina indicated that the measure had been notified (G/SPS/N/ARG/37). It clarified that the request for the full text of the measure had not been received from the Commission, but from several EC member States. Argentina committed to sending the relevant document to the European Commission.

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

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

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

84. In July 2001, the European Communities referred to the information on BSE circulated by OIE and WHO, concluding that there was no evidence of BSE transmission via milk collected from healthy animals (G/SPS/GEN/221, 222, and 230). However, Argentina was still imposing import restrictions on EC dairy products, in particular from the United Kingdom. The European Communities had replied to Argentina's extensive questionnaire, but Argentina had failed to provide a risk assessment to justify its measures. The European Communities urged Argentina either to provide a scientific justification, or to lift the trade restrictions. Otherwise the European Communities would have to consider an eventual recourse to Article 12.2 consultation procedures. Argentina replied that in January 2001, its animal health service had adopted a resolution which imposed restrictions on

dairy products. A new, less restrictive sanitary certificate would be notified soon. Regarding human health, dairy products had been reclassified from medium to low risk, and the relevant decree eliminated the restrictions. This reclassification was not yet complete, and one category of milk remained under restriction. The United Kingdom was considered a high-risk country, but the situation was under analysis.

85. In October 2001, the European Communities indicated that despite statements from the Argentine authorities that dairy products would be reclassified, Argentina continued to place restrictions on baby food and on Baileys from Ireland; Belgian chocolate; bovine semen and dairy products from the Netherlands; milk powder and cheese from Germany; Swedish cacao oil butter; and dairy products from the United Kingdom and France. Furthermore, the European Communities disagreed with the classification of dairy products as low-risk, as opposed to no-risk, and criticized the lack of transparency of the Argentine measure. The European Communities was considering eventual recourse to Article 12.2 consultation procedures. Argentina explained that it did not maintain any restriction on EC dairy products; they just had to be certified as coming from establishments where no case, or suspected case, of BSE had been recorded. A counter proposal from EC member States that milk come from establishments where there had been no case of BSE was currently being studied to determine equivalence. Regarding transparency, all standards could be consulted on the web page of the Official Bulletin. As Argentina continued efforts to resolve this question, it did not consider recourse to Article 12.2 consultations necessary.

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

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

86. In May 1996, Switzerland presented information on its BSE situation, and noted that a number of countries had restricted imports of dairy products, although both the OIE and the WHO concluded that dairy products posed no risk in respect of BSE. In October 1996, Switzerland provided an update of its sanitary prescriptions, culling and veterinary measures to be adopted at the border. In March 1997, Switzerland indicated that although it was a country of low incidence of BSE, it had been subject to a number of BSE-related trade restrictions, some of which could not be justified under WTO rules. The Chairman agreed to hold informal consultations with interested Members on 21 March 1997.

87. In July 1997, Switzerland reported that although there had been some positive developments, problems remained. Switzerland addressed some questions to the Members concerned, stressing its interest to find rapid solutions through bilateral discussions. Argentina informed the Committee that

it had replied to Swiss questions and would provide more information; Switzerland expressed satisfaction with this progress. Brazil noted that its import prohibition of bovine semen was based on the classification of bovine semen as a medium risk product, and on Brazil's BSE-free status. At the subsequent meeting of the relevant MERCOSUR working group in July 1997, Brazil would attempt to reclassify bovine semen as low risk.

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

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

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

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

92. In October 1997, Switzerland indicated that its BSE-situation was improving, but that numerous restrictions continued to affect Swiss exports of live cattle, genetic material, meat, and in certain cases milk products. Bilateral consultations were continuing. Switzerland questioned why the Australian quarantine requirements for the importation of bovine embryos and semen applied to Switzerland only, and whether countries with actual BSE incidents were subject to similar requirements. Switzerland also wondered why the objective of the new requirements was to "develop import requirements…based on international standards", whereas the notification indicated that no international standard existed. Australia replied that it had developed generic conditions for importation of ruminants and ruminant genetic material from member States of the European Communities, but had established bilateral conditions with other trading partners. The conditions in the notified draft requirements for Switzerland were in accordance with Australia's general import policy relating to BSE promulgated in January 1995, and were equivalent to BSE requirements for all other countries. International standards existed and Australia did not consider that the notified draft measures deviated from such standards.

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

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

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

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

## 31. Canada - Measures related to BSE

(a) Measures affecting imports of products containing Brazilian beef

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| Raised by: | Brazil |
| Supported by: | |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 2-5) |
| Relevant document(s): | G/SPS/GEN/245, G/SPS/W/108, G/SPS/N/CAN/39, G/SPS/N/CAN/94 |
| Solution (if reported): | Suspension lifted in February 2001. |

97. Canada outlined its BSE policy, and informed Members of recent actions taken regarding the application of this policy. Imports from Brazil had recently been suspended because Brazil had not provided the information requested by Canada in order to carry out a risk assessment. Canada was especially concerned about the traceability of cattle imported from BSE-infected countries. Canada had lifted its suspension after receipt and analysis of documentation from Brazil and a visit to Brazil by scientists from Canada, the United States and Mexico. Canada reported that Brazilian authorities had agreed to certification requirements. Brazil regretted that Canada had not handled this matter in a more transparent manner, with prior notification and consultation. Brazil recalled its BSE-free status according to OIE classification, and its ban on feeding of ruminant material to cattle. Brazil had suffered many adverse effects from Canada's hasty embargo. This had raised awareness of certain shortcomings of the multilateral system in cases like this one. Brazil announced its intention to present proposals to the SPS Committee and the General Council to address these problems.

(b) Zoosanitary import policies pertaining to BSE

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

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

## 32. European Communities – Measures related to BSE

99. In May and October 1996, the European Communities informed the SPS Committee about the development of BSE, and the measures taken[3]. This information is contained in G/SPS/W/67 and G/SPS/GN/8.

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

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

101. In March and July 2001, the European Communities again provided updates of the BSE situation, including on new BSE-TSE legislative measures. The European Communities also raised concerns with many countries' restrictions on EC exports, especially those on products such as pig and poultry meat, milk and dairy products. Measures should be transparent and communicated through agreed procedures. The European Communities intended to intensify its efforts through bilateral discussions, and to begin raising specific issues in the Committee. New Zealand and Australia provided updates of their relevant regulations.[4]

(a) EC transitional TSE measures

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| Raised by: | Canada |
| Supported by: | United States |
| Dates raised: | October 2001 (G/SPS/R/25, paras. 5-8) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

102. Canada expressed concern about loss of access to the EC markets for pet food, live bovine animals, embryos, ova and tallow in the wake of the adoption of transitional TSE measures by the European Communities. Canada stated that the EC regulations classified countries according to four levels of risk, but applied only two levels of risk management. According to the OIE criteria, Canada was BSE-free, yet Canadian exports faced identical trade restrictions to EC member States in which BSE was prevalent. These problems would be compounded by EC animal waste regulations due next year which threatened to prohibit the few remaining animal products that Canada could still export to the European Communities. Canada requested to be removed from the scope of application of these measures. The United States agreed that the European Communities was applying stringent measures to countries that were either not affected by BSE, or which had significantly different risk factors. This approach lacked scientific justification and ran counter to international standards. The European Communities explained that the transitional measures laid down import conditions for products of bovine, ovine and caprine origin, and would be extended to cover certification of other products of animal origin. Pet food was included to protect consumers' health. An exemption was made for countries classified in category one (presence of BSE unlikely), but neither Canada nor the United States were in this category.

[4] G/SPS/R/21, paras. 6-7 and G/SPS/R/22, paras. 4-5 and 47-50. See also G/SPS/N/NZL/77 and addendum.

(b) EC geographical BSE risk assessment

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| Raised by: | Canada |
| Supported by: | United States |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 22-26) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

103. Canada requested information on the EC geographical BSE risk assessment (GBR) process, the consistency of its application and how assessments could be reviewed when risks changed. Canada noted that the OIE was developing a system to verify countries' own assessments of their BSE status, and wondered how it would relate to the EC system. The United States was concerned that the European Communities was applying similarly stringent measures to countries with significantly different risk factors, a practice which lacked scientific justification and ran counter to existing international standards. It was not entirely transparent how country classifications would be determined nor what requirements would be applied in the meantime. The United States had submitted detailed comments identifying a number of problems with the methodology and with the information related to the United States. The United States urged countries to take the OIE standard into account when developing their BSE measures. The OIE representative clarified that the OIE would deal only with recognition of BSE freedom, not with the other four categories contained in the International Animal Health Code (G/SPS/GEN/266). The Commission on FMD and other Epizootics had received the mandate to develop guidelines to help member countries carry out their risk assessment, taking into account the experience from GBR assessments.

104. The European Communities explained that GBRs were based on information provided by trading partners in a 1998 questionnaire. The GBR methodology had been established by the EC Scientific Steering Committee. The new EC BSE-TSE measure was in conformity with the OIE Code, but the GBR pre-dated the current OIE Code. Any new scientific evidence could be submitted to the Commission and a re-evaluation of a GBR would be considered once additional stability measures had been implemented, allowing three to five years to take into account the incubation period of BSE. The EC representative explained the stability factors that were taken into consideration; these were considered on a case-by-case basis. The European Communities considered that the GBR reflected the international standard, and was willing to cooperate with Members and provide information. Knowledge about this disease should be shared to minimize trade effects where possible.

(c) Restrictions on the use of fishmeal

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| Raised by: | Chile, Peru |
| Supported by: | Ecuador, United States, Iceland |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 17-21), October 2001 (G/SPS/R/25, paras. 12-17) |
| Relevant document(s): | G/SPS/GEN/256, G/SPS/GEN/264 |
| Solution (if reported): | |

105. In July 2001, Peru expressed concern about the EC prohibition on the use of fishmeal in the elaboration of ruminant feed, which had no scientific basis, was not based on a risk assessment, and was more trade-restrictive than required. The competent authorities in Peru had shown that fishmeal and fish oil were safe to human and animal health, and had high nutritional value. Since the prohibition had a very serious impact on the Peruvian economy, Peru asked the European Communities to lift this restriction as soon as possible. Chile underlined that fishmeal was not at all related to BSE. At bilateral meetings, the European Communities had explained that the restriction

was related to cross-contamination of fishmeal and other animal meals within the European Communities. Chile requested the European Communities to exclude fishmeal from the prohibition, and to be more flexible with standards applied to processing plants in the meantime. The European Communities had classified Chile as having minimal BSE risk, and Chile had offered to provide quality and traceability certificates. Chile was surprised that there were no restrictions on vegetable meals, which could also be mixed with meat and bone meal (MBM) in feed. In addition, MBM continued to be used as pet food in the European Communities. The United States urged Members to reacquaint themselves with the relevant OIE guidelines and recommendations (G/SPS/GEN/230).

106. The OIE representative drew attention to the WHO/FAO/OIE conference held in June 2001 on BSE, public health, animal health and trade (G/SPS/GEN/260). The experts at this meeting had concluded that the basis of the EC ban on feeding rendered animal protein to farm animals was to avoid risk of cross-contamination of the animal feed system. Discussions had highlighted the lack of technical means to verify the absence of banned products in meals at very low levels. The European Communities confirmed that the ban on the use of fishmeal in ruminant feed was a safeguard measure reflecting failures in the implementation of rules on animal feed. Imports of fishmeal had not been prohibited, but its use was subject to strict conditions. The European Communities wished to minimize trade effects and was ready to evaluate with Chile, Peru and other countries the consequences, if any, on their exports.

107. In October 2001, Peru indicated that the European Communities recognized that there was no scientific evidence demonstrating that BSE could be transmitted through fishmeal, but maintained its restrictions to address an internal problem of cross-contamination and fraudulent practices. Peru requested that the European Communities lift the restrictions as soon as possible. Chile noted that applying the same restrictions on fishmeal as for MBM had no scientific basis and was not consistent with OIE or WHO recommendations. Chile was concerned over the length of time that the provisional measure had been in place and the suggestion that a new diagnostic test of the presence of animal proteins in feed would need to be developed before the measure could be rescinded. Chile would explore all options available under the SPS Agreement to have the restrictions lifted. The United States underlined the need for BSE control measures to reflect the different risk status of particular products and countries. Iceland objected strongly to the EC measures which were tantamount to an import ban on fishmeal for animal feed.

108. The European Communities clarified that the legislation was a provisional measure that covered the internal use of fishmeal. As all producers were requested to fulfil the same conditions, the measure was not discriminatory. A derogation allowed the use of fishmeal in feeds for non-ruminant animals provided certain strict production and handling conditions were met. The development of a reliable, but less laborious detection test would be a decisive element when reviewing the feed ban, and efforts were underway in the Communities in this regard. The representative of the European Communities questioned claims that the EC regulations had an adverse impact on trade.

(d) Cosmetics and BSE

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

109. Australia expressed concern regarding an EC measure specifying that cosmetics containing certain bovine, ovine and caprine tissues etc. should not be placed on the market. This directive did

not recognize the animal health status of supplying countries. The European Communities stressed that since BSE surveillance was still under development and since detection was difficult, there was considerable uncertainty surrounding the global prevalence of BSE. All comments received by the deadline would be taken into account, and the regulation would enter into force on 1 July 1997. In July 1998, the United States stressed that the measure would reduce or eliminate US exports of tallow derivatives, soaps and cosmetics. The European Communities clarified that in light of WHO recommendations, measures had to be taken to reduce the risk of transmission of TSEs to humans through the food or feed chain, pharmaceuticals or cosmetics. Regarding BSE-freedom, the European Communities was not prepared to recognize any country as BSE-free, taking into account the difficulties of certifying such a status.

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

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| Raised by: | United States |
| Supported by: | Argentina, Australia, Brazil, Canada, Chile, Colombia, Czech Republic, Mexico, New Zealand, Uruguay, Switzerland |
| Dates raised: | October 1997 (G/SPS/R/9/Rev.1, paras. 10-14), March 1998 (G/SPS/R/10, paras. 13-19), June 1998 (G/SPS/R/11, paras. 34-38), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/36, G/SPS/GEN/45, G/SPS/GEN/67, G/SPS/GEN/265 |
| Solution (if reported): | |

110. In October 1997, the United States raised concerns with Decision 97/534 EC banning the use of certain specified risk materials, which might cause international shortages of needed medical products and have a major restrictive impact on trade in tallow and derivatives, gelatine, pharmaceuticals and many food products. This ban seemed to be more restrictive than necessary to achieve its public health objectives, especially as it applied to the United States and other regions where BSE was not known to exist. The European Communities indicated that since scientific studies had shown that its previous measures might not be sufficient, it had raised its level of protection. Members who considered themselves to present no risk with regard to TSEs could present an application for examination by the EC Scientific Committee. Argentina indicated that in its view, measures which failed to distinguish between countries infected with BSE and countries not infected were contrary to the OIE recommendations and the SPS Agreement. He distributed copies of a BSE risk analysis.[5]

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

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

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

113. In July 2001, the United States indicated that the EC legislation on specified risk materials had entered into force for third countries on 1 April 2001 (G/SPS/GEN/265). The United States encouraged the European Communities to ensure that its measures took account of the disease situation in countries where BSE did not occur, such as the United States.

(f) Gelatin imports

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| Raised by: | Brazil, United States |
| Supported by: | Argentina, Australia, Chile, Mexico, Thailand, United States |
| Dates raised: | October 1997 (G/SPS/R/9/Rev.1, paras. 8-9), March 1998 (G/SPS/R/10, para. 16), September 1998 (G/SPS/R/12, paras. 22-23), November 1998 (G/SPS/R/13, para. 19), July 1999 (G/SPS/R/15, paras. 9-11), November 1999 (G/SPS/R/17, paras. 6-7), March 2000 (G/SPS/R/18, paras. 21-22), March 2001 (G/SPS/R/21, paras. 95-96), July 2001 (G/SPS/R/22, paras. 52-53), October 2001 (G/SPS/R/25, para. 34) |
| Relevant document(s): | G/SPS/GEN/133, G/SPS/N/EEC/74 |
| Solution (if reported): | In October 2001, Brazil reported that the European Communities had lifted its restrictions in June 2001. US concern ongoing. |

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

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

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

117. In March 2001, the United States indicated that since May 2000, EC and US authorities had been discussing the continuation of US gelatin shipments based on the equivalence of US and EC safety systems. Despite continuing efforts of US regulatory authorities and industry, the European Communities had not agreed to accept equivalence based on export certificates issued by US

authorities. As a result, there had been no exports of US food grade gelatin to the European Communities since June 2000. The United States appreciated EC efforts to review information, and urged the Commission to accept the equivalence of US certificates. The European Communities stated that both sides had a clear idea of the problems involved, which were primarily of a judicial nature. The European Communities was proposing flexible solutions which both parties might find acceptable.

118. In July 2001, the United States reported that despite ongoing efforts, US shipments of gelatin had been discontinued since June 2000 because the European Communities had not agreed to accept equivalence-based export certificates. The United States had demonstrated that US gelatin food safety systems met the EC appropriate level of protection. The European Communities clarified that US gelatin was not prohibited, but that negotiations were underway on a specific certificate for the United States. The equivalence of the US production system had been established on all but two points, where compliance with additional requirements must be certified. Since December 2000, the only pending question was that FDA, as a matter of policy, did not certify compliance with foreign rules, while the European Communities required certification by a competent authority.

119. In October 2001, Brazil reported that intense bilateral consultations on Brazilian processing methods and controls had resulted in the European Communities lifting its restrictions as of 13 June 2001.

### 33. France – Certification requirements for pet food

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| Raised by: | United States |
| Supported by: | Chile |
| Dates raised: | March 1997 (G/SPS/R/7, paras. 7-8), July 1997 (G/SPS/R/8, paras. 20-21), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/18, G/SPS/GEN/265 |
| Solution (if reported): | |

120. In March 1997, the United States expressed concern with regard to French certification requirements adopted under national legislation which blocked US exports of pet food and had not been notified to WTO. Bilateral exchanges with France had produced no progress. The European Communities regretted that their internal procedure for notification of national measures had delayed notification of the French measure in question. The measure had been based on discussions and recommendations at the EC Commission level, recommendations by the WHO, as well as parallel scientific discussions in the United Kingdom and France.

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

122. In July 2001, the United States reported that its exports continued to be hampered by French certification requirements, which differed from those applied by other EC member States (G/SPS/GEN/265). The United States questioned the scientific foundation for excluding animal meat or bone meal from pet food produced in countries where BSE does not occur.

**34. Hungary - Restrictions related to BSE**

(a) Restrictions on bovine products

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| Raised by: | Canada |
| Supported by: | |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 16-17) |
| Relevant document(s): | G/SPS/GEN/230 |
| Solution (if reported): | |

123. Canada indicated that Hungary had suspended imports of all bovine products from Canada due to fears over BSE, although Canada was BSE-free and BSE could not be transmitted by bovine semen. Canada was willing to continue working with the Hungarian authorities to resolve this matter as quickly as possible. The United States drew attention to the OIE document (G/SPS/GEN/230) which listed products that were safe from BSE and encouraged Members to review their measures accordingly. Hungary reported that since several Members had recently imposed import bans on certain BSE-free countries, Hungarian consumers had begun to question the safety of animals and products from these countries. Hungarian authorities had made prion tests a mandatory condition for veterinary import licenses for live cattle, fresh meats and non-heat-treated products of bovine origin. Bovine semen was not subject to the import restrictions.

(b) Restrictions on pork products

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| Raised by: | Canada |
| Supported by: | |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 31-32) |
| Relevant document(s): | |
| Solution (if reported): | |

124. Canada reported that as of January 2001, Hungarian importers of pork products from Canada had not been able to obtain import certificates from Hungary's veterinary services. A similar disruption had occurred the previous year, and had been resolved through bilateral discussion. Canada asked Hungary to resume issuing import permits, or to provide a legitimate scientific justification for the measure. Hungary referred to fears over BSE transmission and cross-contamination of foodstuffs, and was willing to enter into bilateral consultations on the matter. Canada requested clarification on the relevance of feed cross-contamination to the importation of frozen pork.

**35. India – Import restrictions on bovine semen**

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| Raised by: | Canada, European Communities |
| Supported by: | United States |
| Dates raised: | March 1999 (G/SPS/R/14, para. 19), (G/SPS/R/18, paras. 23-25), June 2000 (G/SPS/R/19, paras. 24-25), November 2000 (G/SPS/R/20, paras. 18-22), March 2001 (G/SPS/R/21, paras. 40-43), July 2001 (G/SPS/R/22, para. 51) |
| Relevant document(s): | G/SPS/GEN/113 |
| Solution (if reported): | Change of relevant regulations and expected solution reported in July 2001. |

125. In March 1999, the European Communities indicated that bilateral contact with India regarding import restrictions on bovine semen had not been successful, and submitted a list of specific questions. In March 2000, the European Communities reported that no information had been received

from India, although there had been some bilateral and multilateral contacts. India presented some information to the EC delegate at that time.

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

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

128. In November 2000, Canada, supported by the European Communities, reiterated its concerns regarding India's BSE-related restrictions on bovine semen imports, despite Canada's BSE freedom, and despite agreement in the OIE and other veterinary bodies that BSE was not transmitted by semen. In September 2000, India had indicated that it intended to continue this unjustified prohibition, despite the lack of risk assessment for the measure. India reported that detailed bilateral consultations were ongoing. The Indian Animal Husbandry Commission had met on 11 September 2000 and had noted the findings of the EC Scientific Steering Committee (SSC) regarding the difficulty of making precise estimates of the risks of infectivity of various products including semen.

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

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

131. In March 2001, Canada and India announced that they had agreed to informal discussions under the SPS Agreement and hoped that the matter would be resolved soon. Canada recalled the OIE statement confirming that BSE could not be transmitted by semen (G/SPS/GEN/230). India stressed that it was not trying to give an unfair advantage to domestic producers. The socio-religious conditions related to the treatment of cows in India were such that India had to be extremely cautious. India asked Canada to cooperate with India's risk assessment, which would take at least another six months to complete. Canada questioned the need to carry out the risk assessment, since according to the OIE there was no risk of disease transmission through semen. India and Canada intended to raise the issue at the OIE.

132. In July 2001, Canada reported that it was engaged in bilateral consultations under the SPS Agreement with India. There had been certain positive developments and Canada hoped to quickly

resolve the issue. India indicated that the relevant regulations had been changed, and that the changes would soon be notified.

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

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

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

### 37. Israel – Measures affecting imports of bovine meat

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

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

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

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|---|---|
| Raised by: | Switzerland, United States |
| Supported by: | Brazil, European Communities |
| Dates raised: | June 1998 (G/SPS/R/11, paras. 48-49), September 1998 (G/SPS/R/12, paras. 46-48), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/N/POL/3, G/SPS/N/POL/5, G/SPS/N/POL/13, G/SPS/N/POL/14 and Add.1, G/SPS/GEN/265 |
| Solution (if reported): | |

135. In June 1998, the United States sought clarification of the status of this temporary ban, its scientific basis, and whether future amendments were being considered. Brazil, the European Communities, Switzerland and the United States expressed hope that the disease status of the supplying country, scientific factors related to the infectivity of gelatin and gelatin-containing products, as identified by the OIE, and non-discrimination between suppliers with similar BSE

conditions would all be taken into account in future amendments. Poland indicated that the measure in question would remain in force until the end of June 1998, and would be replaced by a measure reflecting the present state of scientific knowledge. Regarding different treatment of Switzerland, the United Kingdom and Ireland, the new regulations had not yet been adopted by the Polish Government. Poland committed to providing a response on the basis of written questions from Switzerland.

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

137. In July 2001, the United States indicated that bilateral discussions on certification requirements for bovine gelatin continued (G/SPS/GEN/265).

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

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

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

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

### 40. United States – Measures related to BSE

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

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

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

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

### 41. Canada and the United States - Import restrictions due to FMD

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| Raised by: | Hungary |
| Supported by: | |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 90-91), July 2001 (G/SPS/R/22, para. 133) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

142. In March 2001, Hungary expressed concern about reported US and Canadian import bans on Hungarian meat products in reaction to incidences of FMD in France. Canada and the United States clarified that they had not placed any restrictions on the importation of products from Hungary. In July 2001, Hungary reiterated its concern regarding US measures on meat and other animal products that were in force since May 2000. Hungary referred to G/SPS/GEN/266, which listed Hungary as a country free of FMD and rinderpest. The United States offered to work with the appropriate officials to explain the situation.

### 42. Certain Members - FMD-related import restrictions

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|---|---|
| Raised by: | Argentina, European Communities |
| Supported by: | Bolivia, Brazil, Uruguay |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 56-64), October 2001 (G/SPS/R/25, paras. 20-23) |
| Relevant document(s): | G/SPS/GEN/269 |
| Solution (if reported): | New Zealand, Indonesia, Ukraine and Switzerland lifted restrictions against EC member States after they regained FMD-free status. |

143. In July 2001, the European Communities observed that many Members had imposed restrictions on products that had been treated in accordance with the international standard to destroy the FMD virus, and had kept them in place beyond the recognized waiting period of three months. The principles of proportionality, justification of measures and regionalization in accordance with the OIE Code and Article 6 had not been followed. Although border controls within the European Communities had been eliminated, they had been replaced by other control instruments.

144. Argentina expressed concern that many products from Argentina were facing scientifically unjustified restrictions that violated Articles 2.1, 3.1 and 5.1 and the OIE Code. Plant products, except straw and forage, should normally not be affected by FMD-related measures.

145. Australia explained that it was asking for reasonable information to allow a scientific judgement in the face of a different clinical presentation in sheep. Recently, additional restrictions on Denmark and Austria and on race horses from the European Communities had been lifted. Australia would re-examine the restrictions as requested information was received. The United States clarified that its FMD measures on EC countries affected only the United Kingdom, Ireland, the Netherlands and France. The United States had lifted restrictions on EC member States that had not had FMD cases in May 2001, and was currently evaluating the situation in France and Ireland. The OIE representative drew the attention of the Committee to G/SPS/GEN/266, which in Annex 1 contained a list of countries that had been confirmed as free of FMD without vaccination, including several EC member States. G/SPS/GEN/240 contained the relevant Code chapter on FMD, which had been thoroughly reviewed between 1990 and 1997 and should be taken into account by WTO Members.

146. The European Communities noted its long tradition of good trade with Uruguay and Argentina, and hoped the situation would soon be resolved. In the EC view, Australia's questionnaire was out of proportion with the problem to be addressed. It was not acceptable that non-affected countries received a questionnaire corresponding to an affected country wanting to be declared free of FMD. The European Communities appreciated the US reaction regarding unaffected countries, and asked the United States to follow the example of Canada and New Zealand in handling the crisis. Brazil and Bolivia expressed concern that Members were departing from the principles of the SPS Agreement.

147. In October 2001, the European Communities expressed concern over continued Australian restrictions, which affected member States in which there had been no outbreaks of FMD and were based on a failure by these countries to reply to an Australian questionnaire. Canadian and US restrictions against Greece also affected a member State where no outbreak had occurred and that had been declared FMD-free in the meantime. The European Communities also brought to the attention of the Committee continued US, Japanese and Mexican restrictions against France, the Netherlands and Ireland. New Zealand, Indonesia, Ukraine and Switzerland had lifted restrictions against member States after they had regained FMD-free status.

148. Australia reported that it was now able to recognize all member States except the United Kingdom as FMD-free. Japan stated that bilateral consultations were continuing with France, Ireland and the Netherlands. The United States reported that import restrictions continued to apply to the United Kingdom, the Netherlands, France and Ireland. The United States recognized that the disease outbreaks in these countries were limited, no remaining technical concerns existed, and the United States was taking the necessary regulatory actions to publicize the proposals in the Federal Register. Concerning Greece, the product ban pre-dated the current FMD outbreak and was a separate issue. Canada recalled that Greece had only recently expressed an interest in exporting meat products to Canada, and the request was being evaluated.

### 43. Chile - FMD restrictions

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| Raised by: | Argentina |
| Supported by: | |
| Dates raised: | October 2001 (G/SPS/R/25, paras. 90-91) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

149. Argentina was concerned about Chile's draft regulations on fresh or frozen beef, which categorized countries according two categories: FMD-free with or without vaccination. These draft rules seemed to be more restrictive than the OIE standard, which allowed for the possibility of permitting imports from FMD-infected countries or zones as long as certain risk mitigation procedures had been used. Argentina requested Chile to provide sufficient scientific justification as required by Article 3.3. Chile replied that that it was premature to discuss the issue as the draft regulation had not yet been circulated internationally and a bilateral technical meeting was scheduled for early November. The deadline for public comments had only just passed and comments received had not yet been considered. Chile had not yet been asked to provide a risk assessment by the Argentine authorities.

### 44. Indonesia - FMD restrictions

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| Raised by: | Argentina |
| Supported by: | |
| Dates raised: | October 2001 (G/SPS/R/25, paras. 92-93) (see also #42) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

150. Argentina noted it had raised concerns about Indonesia's FMD restrictions on certain products. Although Indonesia had informed Argentina that certain products had been re-classified, the changes had not been implemented and Argentina was still unable to export the products concerned, mainly vegetables and corn. Indonesia stated that the ban on Argentine corn had been lifted as of August 2001. Indonesia looked forward to holding further bilateral discussions.

### 45. Japan - Restrictions on importation of sugar cane top from Indonesia

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| Raised by: | Indonesia |
| Supported by: | |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 32-35), October 2001 (G/SPS/R/25, paras. 24-25) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

151. In July 2001, Indonesia raised concerns regarding Japan's restrictions on the importation of sugar cane top for fear of contamination with FMD, although Indonesia was recognized as free from FMD. Indonesia had cooperated with Japan's assessment of the FMD situation in Indonesia, but was concerned about delays and information requirements. Indonesia intended to provide the information, but requested a clear schedule to ensure a speedy solution. Indonesia and Argentina requested the OIE to explain whether these restrictions could be justified. Japan replied that it had notified the animal health authorities in Indonesia of the additional information needed for the analysis and was waiting for Indonesia's response. The OIE confirmed that Indonesia had been recognized as free from FMD without vaccination (G/SPS/GEN/266, Annex 1). The International Animal Health Code contained a list of products which could transmit FMD, and the list did not include sugar cane (G/SPS/GEN/240). The Code considered that other products, such as cereals, fruits, vegetables and roots did not present a risk.

152. In October 2001, Indonesia reported that in addition to informal bilateral consultations, Indonesia had also provided detailed information requested in a questionnaire from Japan. Indonesia was willing to furnish all necessary documentation, as any protraction of this problem would have detrimental effects on the Indonesian economy. Japan stated that at a bilateral meeting certain misunderstandings had been cleared up. Japan looked forward to receiving such information as was necessary to resolve this problem.

### 46. Japan - Measures regarding FMD

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

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

### 47. Korea – Import restrictions on beef

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

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

### 48. Mexico - Import restrictions on beef

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

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

### 49. Norway – Restrictions on gelatin imports

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

156. In March 1996, Brazil informed the Committee that Norway had halted the issuance of import licenses for Brazilian gelatin because of the existence of FMD in Brazil. Consultations with Norway had been initiated in 1995, and Norwegian authorities had reportedly declared the problem was solved. Nevertheless, import licenses continued to be denied. Norway stated that the ban on gelatin imports from Brazil would be lifted in the context of recent changes to import regulations. The two Members agreed to continue their consultations.

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

### 50. Romania - Notification G/SPS/N/ROM/3 on FMD measures

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|---|---|
| Raised by: | Argentina |
| Supported by: | |
| Dates raised: | October 2001 (G/SPS/R/25, para. 38-39) |
| Relevant document(s): | G/SPS/N/ROM/3 |
| Solution (if reported): | |

158. Argentina questioned the objective indicated on Romania's notification, which made reference to food safety and the need to protect humans from animal diseases. FMD did not affect human health, hence the justification of the measure on food safety grounds raised systemic issues. Although mention of the objectives did not modify the scope of the measures, Argentina sought clarification on the basis of which the measure was declared and suggested that animal health was the only appropriate basis for the measure to be taken. Romania noted that FMD could be transmitted by humans. Although Romania was aware that FMD measures were intended mainly to protect animal health, the reference in the notification to the objective and rationale did not amplify or modify the scope of the measures in any way.

### 51. Slovenia - Notification G/SPS/N/SVN/8 on FMD measures

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|---|---|
| Raised by: | Argentina |
| Supported by: | |
| Dates raised: | July 2001 (G/SPS/R/22, para. 130) |
| Relevant document(s): | G/SPS/N/SVN/8 |
| Solution (if reported): | |

159. Argentina noted that this notification indicated that Slovenia's FMD measure had been taken with the objectives of protecting animal health, and of protecting humans against an animal/plant pest or disease. Argentina considered that the second objective was not justified since FMD did not affect human beings.

### 52. Turkey – Import ban on livestock

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|---|---|
| Raised by: | United States, Hungary |
| Supported by: | Australia, European Communities, New Zealand, Uruguay |
| Dates raised: | June 1998 (G/SPS/R/11, para. 33), September 1998 (G/SPS/R/12, paras. 7-10), June 2000 (G/SPS/R/19, paras. 12-14), July 2001 (G/SPS/R/22, para. 127), October 2001 (G/SPS/R/25, para. 33) |
| Relevant document(s): | G/SPS/GEN265 |
| Solution (if reported): | The United States reported in July 2001 that its concerns were resolved. Hungary's concerns are outstanding. |

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

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

162. In July 2001, the United States indicated that Turkey had assured the United States in September 1999 that the import ban was no longer in force (G/SPS/GEN/265). The United States considered this trade concern resolved. In October 2001, Hungary reported that its concerns were still outstanding.

C. OTHER ISSUES CONCERNING ANIMAL HEALTH

### 53. Australia - Import restrictions on prawn and prawn products

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| Raised by: | Thailand on behalf of ASEAN |
| Supported by: | |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 84-85), October 2001 (G/SPS/R/25, paras. 109-111) |
| Relevant document(s): | G/SPS/N/AUS/124, G/SPS/N/AUS/126 |
| Solution (if reported): | |

163. In March 2001, Thailand, on behalf of ASEAN, drew attention to Australia's notifications regarding its risk analysis and interim measure on prawn and prawn products, which required risk management measures for White Spot Syndrome and Yellow Head Virus. Prior to the deadline for comments, Australia had imposed an interim measure on imports of uncooked prawn and prawn products from ASEAN countries, and which was based on the fact that the imported prawn might illegally be used as fishing bait. ASEAN objected to the inclusion of illegal domestic practices as a major element in risk analysis. Thailand urged Australia to lift this interim measure, which was more restrictive than necessary and inconsistent with Article 5. Australia explained that the measures were the result of an outbreak of exotic White Spot Virus disease. Investigations had revealed that far more imported prawns were being used for bait than had been previously thought, and a 15 g cut off point was introduced. The additional measures applied only to whole green and unpeeled headless green prawns from areas not free of White Spot Disease. The risk analysis was progressing and comments would be taken into account.

164. In October 2001, Thailand again expressed serious concern about the inclusion of Australia's domestic enforcement practices as a major element in Australia's risk analysis. Thailand urged Australia to lift the interim measures taken on the basis of this risk analysis, as ASEAN believed the measures were not based on scientific evidence and were more trade restrictive than necessary. Australia believed its measures to be scientifically valid. The risk analysis was continuing and would result in final measures. An application for equivalence for highly processed prawn products was being examined and, if approved, would result in less trade restrictive measures.

### 54. Argentina - Temporary prohibition of fresh pork and products

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

165. The European Communities observed that the Argentine measure applied to the entire European Communities. The European Communities had taken measures to regionalize the EC member States with restrictions with regard to Classic Swine Fever. Argentina replied that it believed in the principle of regionalization, but had found that there was no basis to assume compliance within the European Communities. Argentina had requested information from a number of EC member States, but only four countries had responded. Classic Swine Fever was a highly infective OIE List A disease which had not occurred in Argentina since 1985. Argentina would assess information received so as to adjust its measure as appropriate.

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

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|---|---|
| Raised by: | Thailand |
| Supported by: | European Communities |
| Dates raised: | September 1998 (G/SPS/R/12, paras. 42-45), October 2001 (G/SPS/R/25, para. 37) |
| Relevant document(s): | G/SPS/N/AUS/72, G/SPS/GEN/90, G/SPS/GEN/96, see also G/SPS/R/13, G/SPS/GEN/137 and GSPS/W/107/Rev.1 |
| Solution (if reported): | |

166. In September 1998, Thailand believed that Australia's requirement for the importation of chicken meat was in excess of what was needed to protect health, and was not viable for commercial manufacturing. The European Communities added that Australia's recommended temperature and time requirements created an extreme and unnecessary barrier to trade, and committed to providing a list of relevant questions to Australia. Australia replied that its import requirements were based on scientific principles and data. AQIS had based the final heating requirements on research on the inactivation of infectious bursal disease virus (IBDV) strain CS88, a highly virulent strain exotic to Australia. Extensive consultations had been held with Thai and other quarantine authorities to discuss the issue, and Australia was prepared to provide any further information requested. Australia was considering whether additional scientific research could be usefully conducted to enhance scientific understanding and methods of inactivation of various poultry pathogens.

167. In October 2001, Thailand reported that the Department of Livestock Development was finalising its risk analysis on IBVD. A public hearing would be held before the analysis was presented to Australia. In May 2001, the OIE had agreed to conduct research on appropriate heat treatment to inactivate the IBD virus in poultry.

### 56. Australia – Ban on salmon imports

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

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

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

### 57. Bolivia - Restrictions on poultry meat imports

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| Raised by: | Chile |
| Supported by: | |
| Dates raised: | November 2000 (G/SPS/R/29, para. 94), March 2001 (G/SPS/R/21, paras. 33-35), July 2001 (G/SPS/R/22, para. 132) |
| Relevant document(s): | Raised orally |
| Solution (if reported): | Agreement on a protocol and progress reported in July 2001. |

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

171. In March 2001, Chile noted that Bolivia had failed to notify the measure, and requested that a scientific risk assessment be carried out as quickly as possible. Bilateral discussions on the issue had ceased since August 2000. Bolivia explained that import conditions for poultry and other agricultural products had been changed because of problems which Inclusion body hepatitis caused in the bird population and the associated negative economic impact. During the last five years, Bolivia's state veterinary laboratories had determined the clinical absence of Inclusion body hepatitis in Bolivia, but the disease had been diagnosed in Chile. Regarding preventive vaccination, Bolivia stated that this was justifiable only if the virus was present on a farm. Secondly, total protection against the disease was only possible if the serotype present in the vaccination was the same as that present in farm strains. Thirdly, successful protection depended on other immuno-suppressant factors, and in Chile there was a risk of Avian infectious anaemia. Bolivia's National Food and Agricultural Health

Service was revising the standard, and would inform Chile of the results. Bolivia wished to solve the matter expediently and to the benefit of both parties.

172. In July 2001, Chile informed the Committee that the sanitary authorities of both countries had agreed to work on a protocol, and thanked Bolivia for the progress made.

### 58. Czech Republic – Regulation concerning warehouses and silos

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

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

### 59. El Salvador – Restrictions on meat and dairy products

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

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

### 60. European Communities - Ban on antibiotics in feed

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

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

### 61. European Communities – Salmonella-related restriction on fishmeal imports

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

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

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

### 62. India – Restrictions on imports of horses

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

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

### 63. United States - Regionalization in relation to animal health

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

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

### 64. Venezuela - Import conditions for pork meat and products

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

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

### 65. Venezuela – Measures related to Avian Influenza

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|---|---|
| Raised by: | United States |
| Supported by: | |
| Dates raised: | July 1997 (G/SPS/R/8, para. 25), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/19, G/SPS/GEN/265 |
| Solution (if reported): | |

181. In July 1997, the United States informed that non-pathogenic Avian Influenza had been detected in a few north-eastern US states. As a consequence, Venezuela had banned the importation of US poultry and products. The United States contested the scientific basis for this measure and was concerned that it had not been notified.

182. In July 2001, the United States indicated that Venezuela had acted in June 2000 to allow market access for US processed poultry (G/SPS/GEN/265). Venezuelan authorities had not responded to requests from the United States to pursue this matter bilaterally. The United States believed that the measures lacked scientific justification and considered this trade concern unresolved.

## III. PLANT HEALTH

### 66. Australia - Access of California table grapes

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|---|---|
| Raised by: | United States |
| Supported by: | Philippines on behalf of ASEAN, European Communities |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 92-94), July 2001 (G/SPS/R/22, paras. 65-67), October 2001 (G/SPS/R/25, para. 26) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

183. In March 2001, the United States indicated that for the past 10 years there had been difficulties in exporting California table grapes to Australia. Even under Australia's new IRA process, delays and requests for additional information and documentation had continued, although nearly a year had elapsed since the release of the import risk assessment (IRA). Australia had conducted additional studies, the latest focussing on the glassy-winged sharpshooter and Pierce's Disease. The United States maintained that these additional studies were not justified, and urged Australia to modify its import restrictions consistent with the IRA and its obligations under Article 5.1. Australia explained that the administrative process was not complete until the Director of Plant and Animal Quarantine made a final decision. Australia was free of Pierce's Disease and believed that there was a

need for further scientific research. A mission of scientists to the United States in 2000 had raised questions about changes in the risk profile which required more information. Australia was willing to cooperate with the United States to learn more about this disease and its vector. The Philippines, on behalf of ASEAN, shared the US concern regarding Australia's phytosanitary regulatory process.

184. In July 2001, the United States expressed disappointment at Australia's apparent abandonment of its commitment to a transparent, science-based risk assessment system. The IRA process did not seem to have an end. Australia had initiated new studies whose chief purpose seemed to be to delay lifting the import prohibition on California table grapes. Australia had pointed to the relatively recent introduction of a leaf-hopping insect, the glassy-winged sharpshooter, although its own IRA had noted that the risks associated with this pest would be negligible. Australia had decided more research on risk mitigation for glassy-winged sharpshooters would be necessary. Table grapes in California were subject to numerous mitigations, and the United States was willing to address legitimate scientific concerns. However, additional research on a pest not found in shipments of table grapes was completely without scientific merit and was a delaying tactic. Australia indicated that the change in risk profile associated with the spread of Pierce's disease, and of its vector, the glassy-winged sharpshooter, in California required additional scientific information to ensure protection from quarantine risk.

185. In October 2001, the United States informed the Committee that constructive consultations had been held to discuss quarantine procedures. Both countries had agreed to continue the dialogue to work toward a resolution of the outstanding issues. Australia was confident that a mutually acceptable solution could be found soon.

### 67. Australia – Notification on methyl bromide

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

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

### 68. Australia – Import restrictions on durian

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|---|---|
| Raised by: | Thailand |
| Supported by: | European Communities, India, Philippines |
| Dates raised: | November 2000 (G/SPS/R/20, paras. 11-14), October 2001 (G/SPS/R/25, paras. 107-108) |
| Relevant document(s): | G/SPS/GEN/217, G/SPS/GEN/218 |
| Solution (if reported): | |

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

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

189. In October 2001, Thailand indicated that despite numerous bilateral meetings, no agreement had been reached. Thailand requested that Australia seek to adjust its import restrictions to make them more commercially viable. Australia replied that a risk analysis for durian had first been finalized in 2000. The risk assessment indicated that other non-destructive methods of sampling could be substituted if efficacy data could be presented to show they provided an equivalent level of protection. However, no information had been received from Thailand that X-ray technology or irradiation could be equally effective. Australia was keen to finalize bilateral arrangements so that inspections of packing houses and orchards could begin in Thailand and import permits be issued. Australia noted that it was willing to review arrangements after one year of trade to see if adjustments could be made while maintaining Australia's biosecurity needs.

### 69. Australia – Restrictions on imports of tropical fresh fruit

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

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

191. In June 2000, the Philippines pointed out that major ASEAN exports to Australia faced stringent SPS measures that were not based on a risk assessment. These measures were more

restrictive than necessary, and should be reviewed within a reasonable period of time. Malaysia suggested Australia carry out ASEAN-wide risk assessments. Australia offered detailed comments on each of the points raised by the Philippines and noted that a formal response would be provided in due course. In response to Malaysia, Australia explained that pest risk analysis was specific to the trading partners involved and varied according to the exporter's pest status.

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

### 70. Brazil – Import prohibition of coconut palms and related products

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

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

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

### 71. Brazil – Restrictions on imported wheat

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| Raised by: | United States |
| Supported by: | |
| Dates raised: | March 1997 (G/SPS/R/7, paras. 16-17), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/265 |
| Solution (if reported): | Import of certain classes of wheat allowed as of early 2001. |

195. In March 1997, the United States raised concern regarding Brazilian restrictions on wheat imports intended to prevent the establishment of the fungus *tilletia controversa* (TCK bunt or Dwarf bunt). However, a 1996 bilateral agreement was based on the understanding that the fungus in

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

196. In July 2001, the United States reported that following extensive technical consultations, Brazil had issued new import instructions in early 2001 that allow import of certain classes of US wheat (G/SPS/GEN/265). The United states considered this trade concern resolved.

### 72. Canary Islands - Phytosanitary regulations

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|---|---|
| Raised by: | Argentina |
| Supported by: | |
| Dates raised: | October 2001 (G/SPS/R/25, paras. 97-98) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

197. Argentina expressed concerns about the difference between phytosanitary regulations in the Canary Islands and the European Communities, particularly as regarded apple and pear imports. As Argentina had demonstrated the equivalence of its measures in a communication to the EC representative in March 2001, there seemed to be no reason to prohibit exports of apples and pears to the Canary Islands. Argentina questioned why the Canary Islands had been exempted from the scope of EC Directive 2029, and asked for a probable date for the implementation of this regulation. Argentina requested the acceptance of the equivalent measures proposed in March. The European Communities stated that it would provide Argentina with a bilateral reply in due course.

### 73. Chile – Restrictions on imports of wheat and fruit

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| Raised by: | United States |
| Supported by: | |
| Dates raised: | March 1997 (G/SPS/R/7, paras. 18-19), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GN/14, G/SPS/GEN/265 |
| Solution (if reported): | Restrictions on wheat removed in October 1997. Import access granted for certain fruit; consultations on other fruit continuing. |

198. In March 1997, the United States expressed concerns that Chile's import requirements for wheat and fruit did not recognize regional conditions in line with the SPS Agreement, nor IPPC guidelines relating to pest-free areas. With respect to wheat, Chile replied that the United States had not asked to be recognized as free of *tilletia indica* (Karnal bunt). Regarding fruit, Chile stressed that it had recognized areas free of the fruit flies *anastrepha fraterculus* and *ceratitis capitata* (Mediterranean fruit fly) in California, which would facilitate the entry of US exports.

199. In July 2001, the United States reported that following bilateral discussion, Chile had removed restrictions on US wheat in October 1997 (G/SPS/GEN/265). Import access had also been granted for grapes, kiwis, avocados and lemons from California, apples and pears from Washington, and raspberries and shelled nuts from all US states. According to the United States, Chile was preparing new rules to allow imports of additional products. The United States was working with Chile on import conditions for other fruit.

### 74. Cuba - Restrictions on apples and pears

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|---|---|
| Raised by: | Argentina |
| Supported by: | |
| Dates raised: | October 2001 (G/SPS/R/25, para. 101) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

200. Argentina expressed concerns that Cuba did not accept cold treatment as a quarantine treatment for apples and pears. Bilateral consultations had been held, and Argentina expected further information from Cuba on this issue.

### 75. Czech Republic - Imports of potatoes

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

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

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

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

### 76. European Communities - Notification G/SPS/N/EEC/131 regarding cut flowers

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|---|---|
| Raised by: | Ecuador |
| Supported by: | Israel, Kenya |
| Dates raised: | October 2001 (G/SPS/R/25, paras. 45-48) |
| Relevant document(s): | G/SPS/N/EEC/131, G/SPS/GEN/278 |
| Solution (if reported): | |

204. Ecuador indicated that it had submitted a list of questions regarding the scientific grounds for the EC measure on cut flowers, the risk analysis, the methods to be used at entry ports, special

treatment for developing countries, and possible alternative measures. Israel expressed concern over changes in inspection procedures that could detrimentally affect deliveries to its major export market. Kenya asked to receive a copy of the EC response to Ecuador's questions. The European Communities explained that the notification covered four harmful non-native organisms that were regularly intercepted on certain commodities including cut flowers: *Amauromyza maculosa*, *Bemisia tabaci* (non-European populations), *Liriomyza sativae* and *Thrips palmi*. At present, most cut flowers were not subject to plant health checks, but it appeared they were a pathway for the organisms in question, and control measures needed to be strengthened. To assess the comments made by Members, the proposed date of entry into force of the draft amended regulation had been deferred.

### 77. European Communities - Measures on imports of Egyptian potatoes

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|---|---|
| Raised by: | Egypt |
| Supported by: | |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 125-126) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

205. Egypt expressed concern that EC measures against imports of Egyptian potatoes, allegedly as protection against the disease Pseudomonas solanacearum, severely restricted imports. Importation of Egyptian potatoes was prohibited unless they originated from agreed pest-free areas, and could be suspended if five interceptions of the bacterium occurred during the 2000-2001 import season. Egypt believed that these measures might not be in accordance with the relevant provision of the SPS Agreement and the GATT 1994, and had prepared questions for the European Communities. The European Communities indicated that the questions would be answered, and clarified that Egyptian potatoes received special treatment in the European Communities. Imports were allowed until the fifth detection of brown rot, which was a disease on the quarantine lists of IPPC and EPPO, while the normal EC standard prohibited imports after one detection. The special treatment had been granted in consideration of Egypt's special efforts to control the disease. The European Communities had received and was studying a document from Egypt containing a contingency plan for brown rot potatoes. Egypt had also requested determination of new free areas for export for the next season, and the request was being considered.

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

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

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

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

**79. European Communities - Citrus canker**

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

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

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

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

**80. European Communities – Protected zones**

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

211. Uruguay expressed concern about an EC decision to eliminate the criteria for protected zones within the European Communities, as this might result in a strengthening of phytosanitary requirements for the whole Community. This could also have negative consequences for citrus fruit

exports from Chile. Delegations requested a clarification of the scientific basis for this proposal. The representative of the European Communities indicated he would forward the concerns to the relevant authorities. He clarified that according to the policy, access to the European Communities would depend on the conditions in the country of origin.

**81. Honduras – Restrictions on imports of rough rice**

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|---|---|
| Raised by: | United States |
| Supported by: | |
| Dates raised: | March 1997 (G/SPS/R/7, para. 55), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/265 |
| Solution (if reported): | Honduras lifted its restrictions in 1997, and the United States considers the concern resolved. |

212. In March 1997, the United States expressed concern that Honduras had not lifted its restrictions on imports of rough rice. Honduras assured the Committee that its authorities would attempt to find a rapid solution to the problem.

213. In July 2001, the United States reported that Honduras had lifted its restrictions in 1997 (G/SPS/GEN/265). The United States considers this trade concern resolved.

**82. Indonesia - Restrictions on importation of fresh fruit**

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|---|---|
| Raised by: | New Zealand |
| Supported by: | |
| Dates raised: | November 2000 (G/SPS/R/20, paras. 8-10), March 2001 (G/SPS/R/21, paras. 44-45, July 2001 (G/SPS/R/22, paras. 54-55) |
| Relevant document(s): | G/SPS/GEN/219 |
| Solution (if reported): | Lifting of restrictions announced in July 2001. |

214. In November 2000, New Zealand noted that Indonesia had imposed restrictions on fresh fruit from New Zealand since the discovery of two fruit flies in a residential area of New Zealand in May 1996. No fruit flies were ever found outside a 200 meter zone around the initial incursion, and no fruit flies were trapped after three weeks. A number of WTO Members imposed restrictions on New Zealand fruit products following the initial incursion, but these restrictions were progressively lifted. However, Indonesia continued to prohibit imports of fruit produced within a 15-km radius of the incursion and required cold treatment of all fruit from New Zealand. At bilateral consultations held just prior to the SPS Committee meeting, Indonesia had undertaken to review the information which New Zealand had already provided. Indonesia took note of New Zealand's concerns, and clarified that it needed further documentation supporting New Zealand's claim of freedom from Mediterranean fruit fly. However, Indonesia had no intention of maintaining measures which were not justifiable under the SPS Agreement and remained open to further consultations in order to achieve an acceptable resolution.

215. In March 2001, New Zealand reported that bilateral consultations had taken place, and that Indonesia had indicated willingness to inspect the fruit fly surveillance and phytosanitary export assurance systems in New Zealand. Indonesia confirmed that officials were planning to visit New Zealand in the near future. Indonesia hoped that the visit would result in an expeditious solution.

216. In July 2001, New Zealand reported that following a successful technical visit, Indonesian officials had informed New Zealand that the import restrictions on fresh fruit had been lifted with immediate effect. New Zealand looked forward to full implementation of this intent. Indonesia

confirmed that after bilateral consultations and inspection, the conclusion was that current requirements such as cold treatment were no longer necessary. Indonesia would immediately lift the existing restrictions.

### 83. Indonesia - Fresh fruit and vegetables

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

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

### 84. Japan - Import measures on fire blight

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| Raised by: | United States |
| Supported by: | New Zealand, European Communities |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 27-29), October 2001 (G/SPS/R/25, paras. 9-11) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

218. In July 2001, the United States maintained that Japan's requirements for imported apples were unduly restrictive. The United States and Japan had agreed on joint scientific research on apples and fire blight, and the United States was disappointed that Japan had not relaxed its import restrictions in accordance with the results of the research. New Zealand agreed that Japan's phytosanitary measures with respect to fire blight were not technically justifiable and should be modified accordingly. New Zealand intended to engage Japan in further bilateral discussions on this issue. Chile requested that the follow-up to this situation be reported to the Committee. Japan confirmed that the joint research had been completed, and indicated that a risk analysis was being conducted based on the results. There were some difficulties in finalizing the evaluation based solely on these results. Japan desired to continue the technical discussion between plant health authorities of both countries.

219. In October 2001, the United States reported on bilateral discussions on Japan's quarantine procedures on US apples. Although joint scientific research demonstrated that mature symptom-less fruit was not a pathway for the transmission of fire blight, a mutually acceptable technical solution had not been found. The United States was considering what further steps, including dispute settlement, it could take on the matter. New Zealand announced it would also seek bilateral discussions with Japan on its import requirements for apples. Japan stated that in order to complete the technical evaluation, additional information had been requested from the United States. Further bilateral contacts between the US and Japanese experts were considered appropriate.

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

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| Raised by: | United States |
| Supported by: | |
| Dates raised: | October 1996 (G/SPS/R/6, paras. 11-12), March 1997 (G/SPS/R/7, para. 57), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/265 |
| Solution (if reported): | Dispute settlement (W/DS/76) - mutually satisfactory solution notified in August 2001. |

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

221. In a document introduced in July 2001, the United States indicated that despite extensive consultations with Japan, the United States was still awaiting implementation of the Panel decision (G/SPS/GEN/265). A mutually satisfactory solution was notified in August 2001.

### 86. Japan - Plant quarantine regulations

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| Raised by: | United States |
| Supported by: | |
| Dates raised: | March 1997 (G/SPS/R/7, para. 26), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/N/JPN/19, G/SPS/GEN/265 |
| Solution (if reported): | |

222. In March 1997, the United States informed the Committee of bilateral discussion with Japan regarding its plant quarantine regulations. Both Members agreed that the communication process had flowed smoothly, and that this was a good example of how the transparency provisions of the SPS Agreement could enhance the understanding between Members on points of concern. Japan maintained that its proposed regulation was based on the pest-risk analysis guidelines of the IPPC.

223. In July 2001, the United States reported that it had continued to hold bilateral consultations with Japan on aspects of its quarantine regulations, including measures related to apple imports (G/SPS/GEN/265). The United States considers this trade concern unresolved.

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

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| Raised by: | United States |
| Supported by: | Australia, Canada, Chile, European Communities, New Zealand, Philippines (ASEAN), Uruguay |
| Dates raised: | November 1998 (G/SPS/R/13, paras. 31-34), November 1999 (G/SPS/R/17, para. 82), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/100, G/SPS/N/JPN/37, G/SPS/GEN/265 |
| Solution (if reported): | |

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

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

226. In July 2001, the United States indicated that it continued to pursue the matter bilaterally with Japan.

### 88. Mexico – Import prohibition of milled rice

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| Raised by: | Thailand |
| Supported by: | |
| Dates raised: | October 1997 (G/SPS/R/9/Rev.1, para. 44), March 1998 (G/SPS/R/10, paras. 69-70), June 1998 (G/SPS/R/11, para. 24), September 1998 (G/SPS/R/12, paras. 17-18), November 1998 (G/SPS/R/13, paras. 14-16), March 1999 (G/SPS/R/14, para. 15), July 1999 (G/SPS/R/15, para. 7), November 1999 (G/SPS/R/17, para. 86), March 2000 (G/SPS/R/18, para. 26), June 2000 (G/SPS/R/19, paras. 22-23), November 2000 (G/SPS/R/20, paras. 23-25), March 2001 (G/SPS/R/21, paras. 46-47), October 2001 (G/SPS/R/25, paras. 112-113) |
| Relevant document(s): | G/SPS/N/MEX/44, G/SPS/N/MEX/45, G/SPS/N/MEX/55, G/SPS/N/MEX/153, G/SPS/N/MEX/172, G/SPS/GEN/82, G/SPS/GEN/105, G/SPS/GEN/172, G/SPS/GEN/216 |
| Solution (if reported): | New measure notified in March 2000, problems remaining. |

227. In October 1997, Thailand reported that Mexico prohibited importation of Thai milled rice because of the fungus *tilletia barclayana* (Kernel smut), although Mexican experts visiting Thailand had concluded the fungus would be removed during milling, and although the fungus existed in Mexico. Mexico had informed Thailand that the prohibition would be replaced by a new regulation, but despite high-level consultations no progress had been achieved. Mexico assured the Committee that the matter would be followed up. In March 1998, Thailand indicated that it had received no

replies to its written communication to Mexico. The Mexican delegate replied that he would convey the information to his authorities, who were studying the matter. Thailand expressed its disappointment at the lack of progress again in June 1998, and Mexico stated that the issue was still under consideration. In September 1998, Mexico reported on official contacts between the two countries. Mexico was conducting a risk assessment, but had not received the necessary information from Thailand.

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

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

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

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

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

233. In March 2001, Thailand reported that during bilateral consultations, Mexico had indicated that it had removed the prohibition on Thai milled rice, and that Thailand was no longer listed as a country under quarantine against Khapra beetle. Thailand requested that Mexico notify this amendment to the SPS Committee. Thailand was satisfied with the interim measure which allowed for the importation of Thai rice upon request by importers. However, Thailand was concerned that the final publication of the phytosanitary requirements had not yet been adopted, meaning that the lifting of the ban could not be implemented on a permanent basis. Thailand would pursue the

measure bilaterally with Mexico. Mexico explained that the definitive publication of the measure in the Official Journal had not yet been possible due to administrative procedures requiring legislation. However, Mexico would issue phytosanitary certificates until the time of publication. Imports had to fulfill certain criteria, including international phytosanitary certificates, inspection at point of entry, sampling for laboratory analysis and fumigation with methyl bromide. Fumigation at place of origin would only be accepted if the product was in plastic bags.

234. In October 2001, Thailand recalled that in March 2001 Mexico had announced that restrictions against Thai milled rice had been lifted on condition that it underwent fumigation treatment. Despite this statement, notification G/SPS/N/MEX/172 showed that Thailand remained on Mexico's list of countries affected by the Khapra beetle and subject to quarantine requirements. In subsequent bilateral consultations, Thailand had been informed that it would be removed from the list. Mexico expressed surprise at Thailand's statement since as of March, Mexico had imported over 1,000 tonnes of Thai rice. The product mentioned on the notification in question was not Thai rice.

**89. New Zealand - Proposed import prohibition of commodity-country combinations of fresh cut flowers and foliage**

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| Raised by: | European Communities |
| Supported by: | Colombia |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 68-70) |
| Relevant document(s): | G/SPS/N/NZL/24, G/SPS/N/NZL/142 |
| Solution (if reported): | |

235. The European Communities was concerned that according to the proposed measure, plants not traded for two years might be subject to a prohibition, pending a new risk assessment. This practice was not in accordance with international standards, and was unnecessary and unjustified. Colombia expressed interest in participating in bilateral exchanges and in receiving relevant information. New Zealand explained that in 1997 it had commenced a review of its import requirements for cut flowers as imports were steadily growing. New draft standards had been approved and notified in 1998, and were being reviewed in light of the most up to date scientific data. At an initial step the review included the suspension of historic phytosanitary requirements for some countries. New Zealand had notified its plan to further consolidate the approved country-commodity schedules to include only those commodities that had actually been exported to New Zealand in the past two years. New Zealand would continue to address the EC concerns on a bilateral basis.

**90. Panama – Requirements for certification of consumer rice**

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| Raised by: | United States |
| Supported by: | |
| Dates raised: | March 1997 (G/SPS/R/7, para. 15), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/265 |
| Solution (if reported): | Import restrictions removed in 1997, concern resolved. |

236. In March 1997, the United States noted that Panama required imports of consumer rice to be certified free from the fungus *tilletia barclayana* (Kernel smut), although this fungus already existed in Panama. Furthermore, the fungus in question could not be transmitted through milled rice. Panamanian officials had allegedly suggested that current domestic supply conditions had influenced their decisions. The representative of Panama replied that she would forward a report from capital to the US Department of Agriculture.

237. In July 2001, the United States indicated that Panama had removed its import restrictions on rice in late 1997, and that the matter was resolved (G/SPS/GEN/265).

### 91. Phytosanitary issues in general

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

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

### 92. Poland – Restrictions on wheat and oilseeds

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| Raised by: | United States |
| Supported by: | |
| Dates raised: | March 1997 (G/SPS/R/7, paras. 13-14), November 1998 (G/SPS/R/13, para. 27), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/GEN/265 |
| Solution (if reported): | |

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

240. In July 2001, the United States indicated that it continued to pursue the matter bilaterally with Poland.

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

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| Raised by: | Hungary |
| Supported by: | European Communities, Bulgaria |
| Dates raised: | March 1998 (G/SPS/R/10, paras. 20-21), June 1998 (G/SPS/R/11, paras. 27-30), September 1998 (G/SPS/R/12 and Corr.1, paras. 31-34), October 2001 (G/SPS/R/25, para. 33) |
| Relevant document(s): | G/SPS/N/SVK/8 and Rev.1, G/SPS/N/SVK/11, G/SPS/GEN/79 |
| Solution (if reported): | Hungary reported a mutually acceptable solution in October 2001. |

241. In March 1998, Hungary indicated that although the Slovak Republic had made changes to its measure on importation of apples, pears and quinces as notified, the certification and information requirements were extremely burdensome. The measure appeared to be more restrictive than required

to protect health, was not based on scientific principles and constituted a disguised restriction on trade. The Slovak Republic answered that the measure was intended for protection against the introduction of fire blight (Erwinia amylovora), which did not occur in Slovakia. The revised measure, which extended import possibilities, was consistent with the SPS Agreement, but the Slovak Republic remained open to bilateral discussions.

242. In June 1998, Hungary acknowledged improvements made by the Slovak Republic, but stressed that the measure was not consistent with recommendations by the European and Mediterranean Plant Protection Organization (EPPO). The licensing system, which applied to each consignment, remained too burdensome. The Slovak Republic replied that it imported 35 per cent of its apples, pears and quinces, which showed that there were no serious market access impediments. Given the potential economic costs of introduction of the disease, and since available scientific information was not sufficient, a precautionary approach was adopted in line with Article 5.7. The Slovak Republic was exchanging information with countries applying similar phytosanitary measures, and was ready to continue discussion with its trading partners. In September 1998, Hungary again acknowledged that the Slovak measure had been improved, although a partial ban still applied, for which no scientific justification had been given. The Slovak Republic reiterated its earlier arguments that it had put in place a temporary measure according to Article 5.7. In October 2001, Hungary reported that a mutually acceptable solution had been found.

### 94. Slovak Republic – Import restrictions on potatoes

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

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

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

### 95. Switzerland - Notification on wheat, rye and triticale

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

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

### 96. Turkey - Restrictions on banana imports

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| Raised by: | Ecuador |
| Supported by: | |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 97-98), July 2001 (G/SPS/R/22, paras. 36-38) |
| Relevant document(s): | G/SPS/GEN/249, G/SPS/GEN/275, G/SPS/GEN/276 |
| Solution (if reported): | Formal consultations requested by Ecuador on 10 September 2001 (DS237). |

246. In March 2001, Ecuador indicated that Turkish authorities were issuing phytosanitary certificates for a specific and limited volume of bananas only. Ecuador believed that the control certificates were not only *de facto* quantitative restrictions, but also imposed unnecessary and unjustified administrative burdens. Ecuador asked Turkey for a written response to a number of questions submitted, and planned to pursue the matter bilaterally. Turkey replied that due to resource constraints, Turkey could not verify whole shipments at once. Turkey had published all relevant regulations, as well as testing and sampling methods. These were the same for both domestic producers and importers and in conformity with international standards.

247. In July 2001, Ecuador indicated that the replies received in response to its questions regarding the "Kontrol Belgesi" certificates did not seem to correspond to the information provided by exporters and importers. Obtaining the certificates had taken up to three times as long as claimed by Turkey, there were inconsistencies regarding the duration and validity of the certificates. In the case of bananas, the expiration dates regularly coincided with the beginning of Turkey's banana harvest. In addition, the certificates were granted for a maximum of one thousand tons, and thus acted as quantitative restrictions. Turkey claimed that one could obtain several certificates, but exporters indicated that one had to use one certificate before a new one was granted. Turkey replied that the certificate was a reference document used in customs proceedings and food safety analysis during the importation process. The system was described in the Official Gazette, and was not used to limit quantities. Issuance of the certificates took between three and seven working days if the information was complete, and the validation period was between four and twelve months. Turkey was ready to discuss the issue bilaterally. Chile and Colombia requested to be informed of future developments of the issue. The European Communities requested to see Turkey's responses to Ecuador's questions.

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

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| Raised by: | European Communities |
| Supported by: | |
| Dates raised: | July 2001 (G/SPS/R/22, paras. 30-31) |
| Relevant document(s): | Raised orally |
| Solution (if reported): | |

248. 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.

### 98. United States – Imports of citrus fruit

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| Raised by: | Argentina |
| Supported by: | |
| Dates raised: | November 1999 (G/SPS/R/17, para. 89), June 2000 (G/SPS/R/19, para. 10), July 2001 (G/SPS/R/25, paras. 94-96) |
| Relevant document(s): | Raised orally |
| Solution (if reported): | Favourable conclusion reported in June 2000. New concerns raised in October 2001. |

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

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

251. In July 2001, Argentina expressed concerns related to a California court decision to overturn a USDA/APHIS risk assessment which had allowed the import of lemons, oranges and grapefruits from north western Argentina starting June 2000. In Argentina's opinion, the judge's reasoning went beyond the terms of the SPS Agreement. As imports from other destination were not subject to zero risk, Argentina felt this amounted to discrimination. In addition the judge had ruled that APHIS had not measured the economic impact of imports on producers in the United States, an economic test inadmissible under the SPS Agreement. Argentina requested US authorities to ensure compliance with the SPS Agreement by bodies other than the central government, according to Article 13. The United States confirmed that no problems had been reported during the two seasons that Argentina

had had access to the US market for citrus. US regulations were subject to judicial review and had been challenged through a District Court in California. Although the Federal Government had disputed the case, the Court had ruled in favour of the complainant in September 2001. The United States indicated that the executive branch agencies were consulting about how to proceed and would take Argentina's comments into account.

### 99. United States – Import restrictions on rhododendrons in growing medium

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

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

### 100. United States – Interim rule affecting solid wood packaging material

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| Raised by: | none; Hong Kong, China is affected |
| Supported by: | |
| Dates raised: | November 1998 (G/SPS/R/13, paras. 3-12), March 1999 (G/SPS/R/14, paras. 2-3), October 2001 (G/SPS/R/25, para. 35) |
| Relevant document(s): | G/SPS/GEN/107, G/SPS/N/USA/137, G/SPS/N/CAN/44 |
| Solution (if reported): | |

253. In November 1998, the United States provided information on an amendment of the regulations applicable to unmanufactured wood, adding treatment and documentation requirements for imports from China, including Hong Kong, China. Hong Kong, China found the rule arbitrary and discriminatory. Although Hong Kong, China recognized that fumigation with methyl bromide was effective, it was concerned that the use of this substance had undesirable side-effects on human health and the environment. Bilateral consultations with the United States had taken place. The United States encouraged Members to comment on its draft measure. Canada indicated that it had also imposed a measure on unmanufactured wood imports from China to avoid introduction of the Asian Longhorned Beetle. A technical expert would be sent to Hong Kong, China to study ways to implement this measure with a minimal disruption of international trade. In March 1999, the United States announced that an advance notice of proposed rule making had been published on 20 January 1999, and that comments were welcome until 22 March 1999. The European Communities indicated that it had been monitoring similar problems, and would provide more information at a later date. In October 2001, Hong Kong, China reported that no new developments had occurred.

### 101. United States - Actions taken by local governments

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

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

### 102. Venezuela - Phytosanitary requirements for garlic and potato imports

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| Raised by: | Argentina |
| Supported by: | |
| Dates raised: | March 2001 (G/SPS/R/21, paras. 26-28), July 2001 (G/SPS/R/22, para. 131), October 2001 (G/SPS/R/25, paras. 99-100) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

255. In March 2001, Argentina provided information on Venezuela's import restrictions on Argentine garlic because of *Lurocystis cepulae* that had been imposed since 1997. According to the terms of the Andean Pact no quarantine measures had been adopted against Argentina. Regarding potatoes, Argentina had begun efforts to gain access to the Venezuelan market in 1996, and had provided the necessary information for a risk assessment. Argentina expressed concern at the seeming lack of will on the part of Venezuela to make progress on both issues. In addition, Argentina was concerned about a lack of coherence in the application of resolution 431 of the mandatory sanitary and phytosanitary standards of the Andean Community, which it would raise with the Andean Community. Venezuela explained that there was no lack of will to move forward on these issues. Regarding garlic, the administrative process to set up the necessary protocols was ongoing. With respect to potatoes, Venezuela believed that Argentine and Andean Community phytosanitary standards were not compatible. Colombia requested Argentina to submit its concerns to the Andean Community.

256. In July 2001, Argentina informed the Committee that bilateral meetings had been held, and although the problem had not been completely solved, Venezuela had demonstrated a will to find a solution. In October 2001, Argentina requested a technical reply from Venezuela to the questions raised during a recent bilateral meeting on the sanitary restrictions on potato imports, so as to facilitate the start of trading in this product. Venezuela replied that it was seeking to prevent the introduction of pests that existed in Argentina but were exotic to Venezuela. The sanitary services were evaluating the appropriateness of alternative methods, such as pest free areas, that would meet Argentina's legitimate trade concerns and Venezuela's appropriate level of protection.

## IV. OTHER CONCERNS

### 103. European Communities - Agricultural biotechnology approval processes

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| Raised by: | United States |
| Supported by: | Canada |
| Dates raised: | October 2001 (G/SPS/R/25, paras. 102-105) |
| Relevant document(s): | raised orally |
| Solution (if reported): | |

257. The United States expressed concern regarding the lack of a functioning approval process in the European Communities for agricultural biotechnology products. Since 1998, a de facto moratorium on approval of biotechnology products had been in place. The United Stated believed that under the SPS Agreement the European Communities was obligated to have a functioning approval process and decisions on pending applications should not be delayed. The United States urged the European Commission to restart the approval process as soon as possible. Canada was concerned that the European Communities was fundamentally altering the regulation of agriculture and food products to discriminate on the basis of how a product was produced rather than the product's characteristics. Canada also considered proposed new EC regulations to be arbitrary, as they required labelling for highly refined products, such as oil that did not contain detectable DNA or protein, while not requiring similar controls on products that could present equal risk but were produced with other methods of development such as mutation breeding or mutagenesis. Moreover, the proposed regulations discriminated against products produced from genetically modified products, but not against products produced with genetically modified organisms such as cheese and wine. Canada argued that the proposed regulations were not commensurate with the risks and lacked scientific basis. Furthermore, the proposed regulations were fundamentally unworkable, as demonstrated by the one per cent threshold for the adventitious presence of GMOs.

258. The European Commission reaffirmed its interest and positive actions aimed at allowing the authorization procedures to continue. The recent meeting of the European Environment Council had started a very important discussion on proposals presented by the Commission to restart the authorization procedure.

### 104. Korea – Import clearance measures and practices

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| Raised by: | United States |
| Supported by: | Several delegations |
| Dates raised: | June 1995 (G/SPS/R/2, paras. 39-40), May 1996 (G/SPS/R/5, paras. 4-5), October 1996 (G/SPS/R/6, para. 54), March 1997 (G/SPS/R/7, para. 54), July 1997 (G/SPS/R/8, para. 77), October 1997 (G/SPS/R/9/Rev.1, paras. 42-43), July 2001 (G/SPS/R/22, para. 127) |
| Relevant document(s): | G/SPS/W/64, G/SPS/W/66, G/SPS/GN/6, G/SPS/GEN/265 |
| Solution (if reported): | Consultations under Dispute Settlement initiated (WT/DS3, WT/DS41); mutually satisfactory solution found. |

259. In June 1995, the United States informed the Committee that it had held formal consultations with Korea regarding its inspection and testing methods. Korea indicated that although consultations had been productive, there was a high degree of ambiguity in the implementation of the Agreement. The parties had noted the lack of international standards in the area, and countries maintained very diverse practices. In May 1996, the United States expressed serious concern regarding Korea's import clearance measures and practices, which were not based on science, did not conform to international

practice or standards, and were deliberately employed to discourage food and agricultural imports. The United States had submitted a formal request for consultations. Korea replied that these issues had been discussed extensively in a series of bilateral consultations with the United States and other countries. Korea had taken various measures to comply with the SPS Agreement, but encountered problems common to developing countries: a low level of sanitary infrastructure, lack of experience and information, and lack of relevant international standards. However, Korea would continue to adapt its measures to the SPS Agreement.

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

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

262. In July 2001, the United States indicated that bilateral consultations initiated under the dispute settlement framework resulted in a mutually satisfactory and positive outcome (G/SPS/GEN/265). The United States considered this trade concern resolved.

### 105. Japan and Korea - Translation of regulations

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

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