WORLD TRADE ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

Addendum

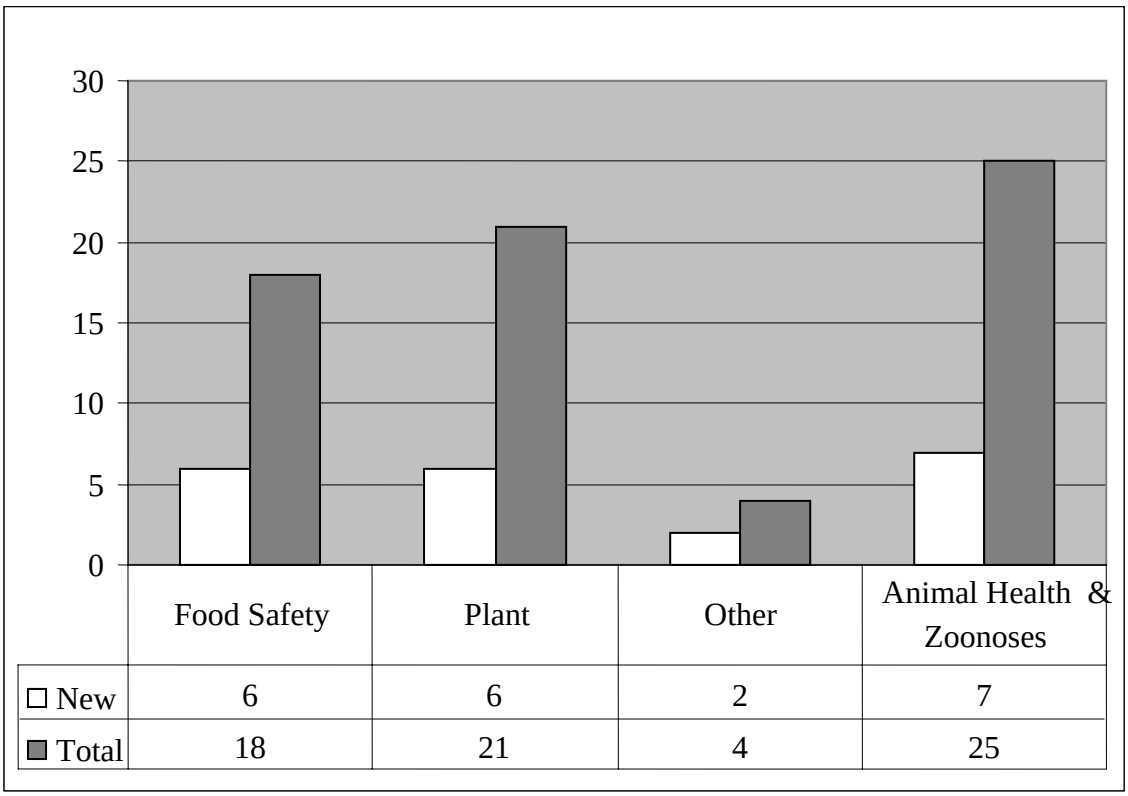
PART 2

This part of document G/SPS/GEN/204/Rev.5 contains summary information regarding all issues which were raised in the SPS Committee for the first time during 2004, and issues which were previously raised but on which further discussions or activities occurred during 2004. This includes issues for which there was no substantive discussion in the Committee during 2004, but where Members reported that a previously raised issue had been resolved, or where substantive action on the issue occurred in another WTO body during 2004 (e.g., establishment of a dispute resolution panel on the issue).

A total of 68 specific trade concerns were brought to the attention of the Committee during 2004, of which 21 were new issues. Figure 1 shows all trade concerns raised or for which a resolution or other action was reported in 2004 by subject. Overall, 18 issues or 26 per cent of the trade concerns relate to food safety, 21 issues or 31 per cent relate to plant health, and 4 issues or 6 per cent relate to other issues such as transparency of SPS measures. The remaining 25 issues or 37 per cent relate to animal health and zoonoses; this category includes issues such as transmissible spongiform encephalopathy (TSEs) that are also relevant for food safety. Figure 2 indicates that TSEs account for 48 per cent of animal health concerns, while issues related to foot-and-mouth disease account for 32 per cent. The remaining 20 per cent concern other issues such as avian influenza and animal disease-free status.

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

FIGURE 1: TRADE CONCERNS BY SUBJECT - 2004



	Food Safety	Plant	Other	Animal Health & Zoonoses
New	6	6	2	7
Total	18	21	4	25

FIGURE 2: TRADE CONCERNS RELATED TO ANIMAL HEALTH & ZOONOSES - 2004

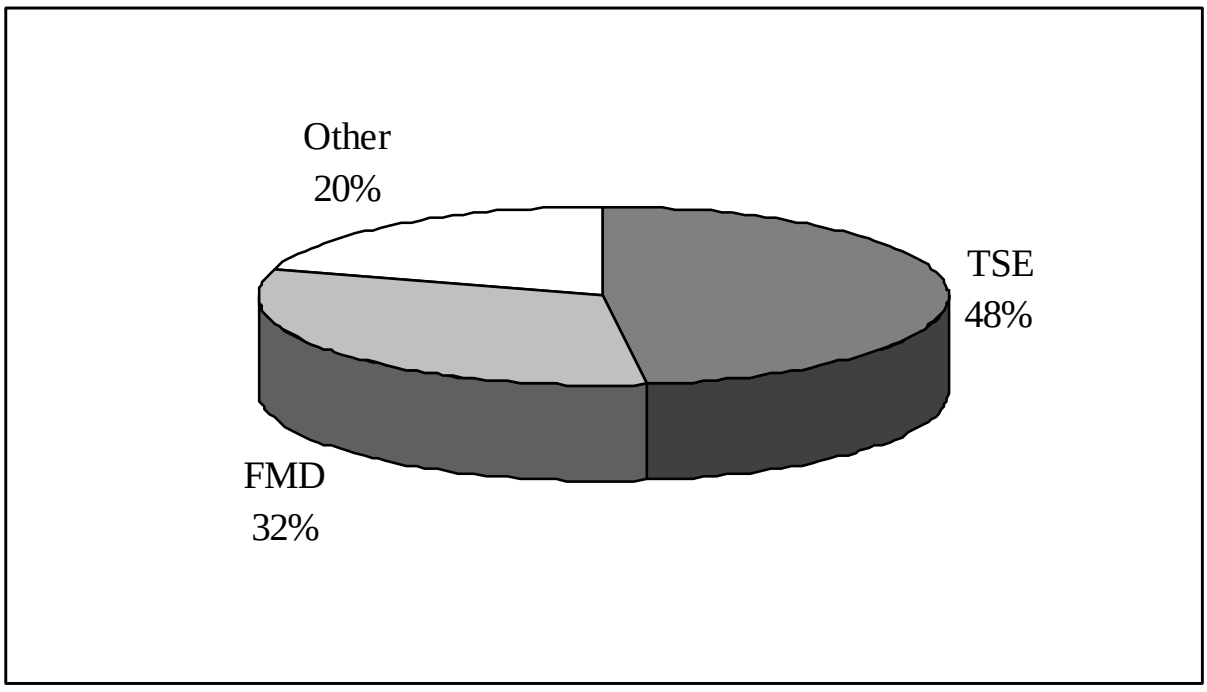
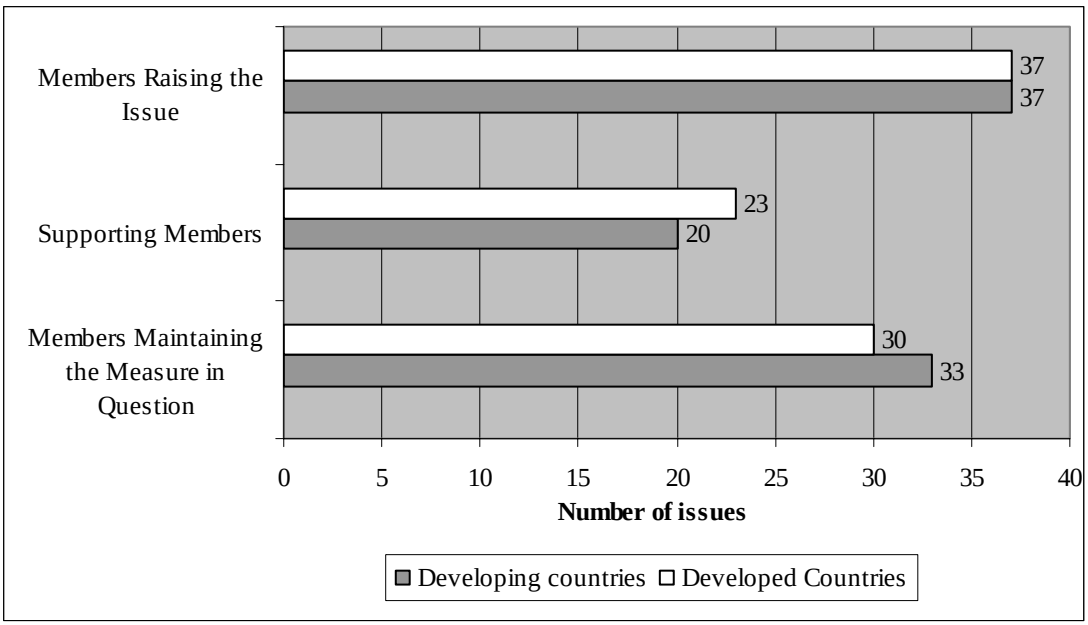


FIGURE 3: PARTICIPATION OF DEVELOPING COUNTRIES – 2004



Of the 68 trade concerns dealt with in 2004, developing and developed country Members have raised an equal number of issues, compared to zero for least-developed countries (on some occasions developing and developed country Members have raised or supported the same issue). In 23 cases, a developed country Member has supported another Member raising the issue, compared to 20 for developing country Members and zero for least-developed country Members. In 33 cases, the measure at issue was maintained by a developing country Member, and in 30 cases it was maintained by a developed country Member (in 5 cases, an unspecified number of countries maintained an issue). No trade concerns regarding measures maintained by least-developed country Members were raised. Figure 4 shows that 22 trade concerns were reported solved in 2004. In 9 cases, the Committee was informed that a partial solution had been found and for the remaining 37 cases, no solutions had been reported.

FIGURE 4 – SOLVED TRADE CONCERNS

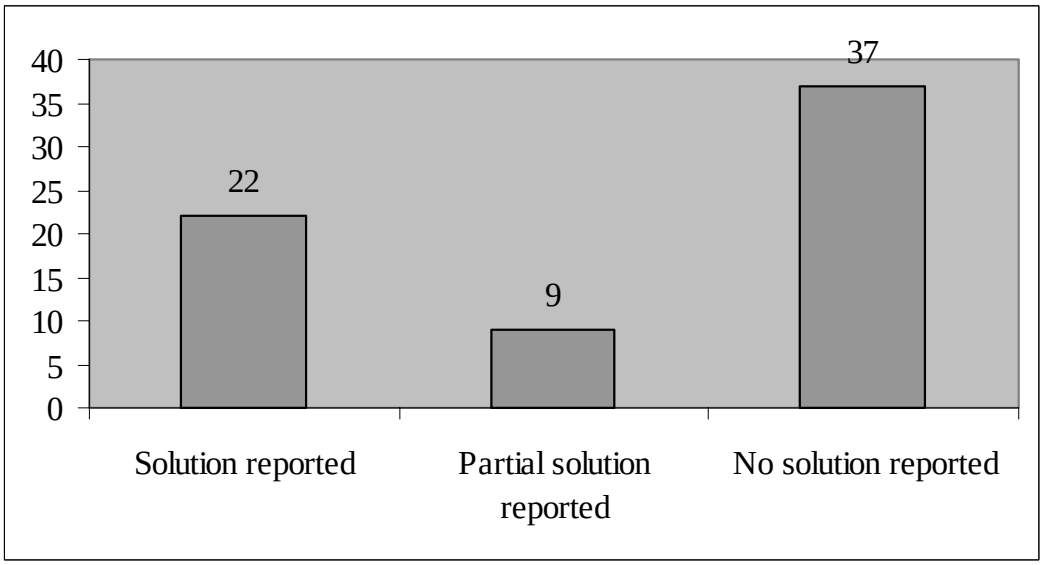


Table 1 – Issues Raised for the First Time in 2004

Item #	Title	Item #	Title
2	Australia – Restrictions on table grapes	**4**	Barbados – Restrictions on citrus
10	China – Measures on US poultry	**11**	China – Lack of transparency for certain SPS measures
16	European Communities – Maximum residue levels for pesticides on food	**17**	European Communities - Ocratoxin A in coffee
18	European Communities - Aflatoxins and Ocratoxin A in foods for infants and young children	**24**	European Communities – Deviation from international standard for wood packaging
29	India – Ban on food grade wax	**30**	India – Restrictions due to avian influenza
31	India – Phytosanitary import restrictions	**32**	India – Non-notification of various SPS measures
38	JAPAN - standards and specifications for food additives	**43**	Korea – Septoria controls on horticultural products
45	Panama – FMD restrictions	**55**	United States – Delisting of France from countries authorized to export certain meat and meat products - **Resolved**
56	United States – Prohibition of the use of specified risk materials and requirements for disabled cattle	**57**	United States – Materials derived from cattle and record-keeping requirements
64	Certain Members – General import restrictions due to BSE	**66**	Certain Members – Regionalization and recognition of animal disease-free status
67	Certain Members – Notification by Members of implementation of ISPM 15		

Table 2 – Other Items Considered During 2004

Item #	Title	Item #	Title
1	Argentina – BSE related measures - **Resolved**	**3**	Bahrain, Kuwait, Qatar, Oman, United Arab Emirates – Import restrictions on Spanish olive oil
5	Bolivia – FMD restrictions - **Resolved**	**6**	Brazil – BSE-related measures - **Resolved**
7	Brazil – Import requirements for seed potatoes	**8**	Chile – Pet food import requirements - **Resolved**
9	Chile – FMD restrictions - **Resolved**	**12**	Cuba – Import restrictions on spiced pork and salted meat products - **Resolved**
13	European Communities – Traceability and labelling of genetically modified organisms and food and feed	**14**	European Communities – Maximum levels for certain contaminants (aflatoxins) in foodstuffs
15	European Communities (Germany) – Ocratoxin A in coffee	**19**	European Communities - maximum residue levels of pesticides
20	European Communities – Restrictions on fishmeal	**21**	European Communities – Proposal on animal by-products
22	European Communities – Sanitary conditions for the importation of live material for apiculture	**23**	European Communities – Citrus canker - **Resolved**
25	European Communities – Agricultural biotechnology approval process	**26**	Hungary – Restrictions on bovine products - **Resolved**
27	Hungary – Restrictions on pork products - **Resolved**	**28**	Iceland – Notification on meat and meat products - **Resolved**
33	Indonesia – Import restrictions on dairy products	**34**	Indonesia – FMD restrictions
35	Japan – Regulation on food additives	**36**	Japan – Amendment of the food sanitation law
37	Japan - Revision of standards and specifications for foods and additives	**39**	Japan – Official control of citrus and other fresh fruits and vegetables
40	Japan – Import measures on fire blight - **Resolved**	**41**	Japan – Restrictions on imports of mangoes
42	Korea – Guidelines for maximum residue level (MRL) testing	**44**	Mexico – Restrictions on the importation of dry beans

Item #	Title	Item #	Title
46	Poland – Requirements for imports of milk and milk products - **Resolved**	**47**	Slovak Republic – Import restrictions on potatoes - **Resolved**
48	Switzerland – Import requirements on meat and eggs - **Resolved**	**49**	Switzerland – Wheat, rye and triticale - **Resolved**
50	Chinese Taipei – Requirements for heat treatment for meat and bone meal in poultry - **Resolved**	**51**	Chinese Taipei – Policies regarding quarantine and non-quarantine pests
52	Chinese Taipei – Import restrictions on potatoes - **Resolved**	**53**	Turkey – Ban on pet food imports - **Resolved**
54	Turkey – Restriction on banana imports - **Resolved**	**58**	United States – Restrictions on imports of Chinese potted plants in growing medium
59	United States – Imports of citrus fruit - **Resolved**	**60**	Uruguay – Risk assessment on BSE
61	Venezuela – FMD restrictions - **Resolved**	**62**	Venezuela – Phytosanitary requirements for potatoes, garlic and onions
63	Venezuela - Restrictions on imports of potatoes, onions, fertilised eggs, day-old chicks and meat products	**65**	Certain Members – FMD-related import restrictions
68	General – Implementation of ISPM 15		

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ARGENTINA

CONCERNS RELATED TO MEASURES MAINTAINED BY ARGENTINA

Animal Health and Zoonoses

Concerns related to TSEs

1. Argentina – BSE related measures

Raised by:	Canada
Supported by:	United States
Dates raised:	June 2002 (G/SPS/R/27, paras. 60-63), November 2002 (G/SPS/R/28, paras. 46-49), April 2003 (G/SPS/R/29, paras. 78-80)
Relevant document(s):	G/SPS/N/ARG/65
Solution:	Resolved

1. Canada indicated that Argentina appeared to have copied the EC geographical BSE risk categorization scheme (GBR), and had not followed an international standard or conducted a risk assessment. Canada had been given a Level 2 rating, although it had no BSE. Argentina had not requested any data from Canada. Furthermore, Canada questioned why the scheme had been notified as an emergency measure, and why Argentina had followed the EC measures instead of carrying out its own analysis. The United States shared Canada's concern and encouraged Argentina to consider the BSE risk assessment and data from the Harvard Center for Risk Analysis.

2. Argentina explained that its measures were based on the available information. If a Member felt the categorization was unjust, it should present the necessary technical information, in which case the review would be given priority. Argentina believed its system was in compliance with the OIE Code. Argentina had to take urgent action to update its BSE measures and any delay would have posed unacceptable risks to Argentina's own BSE status.

3. In November 2002, Canada reported that it had provided a large body of information to Argentina but had not yet had a response. Canada did not have BSE and did not understand how it could have been given such a rating without any risk assessment having been conducted by Argentina. The United States, which was also free of BSE, shared Canada's concern. The United States encouraged Argentina, as well as other countries, to make use of the information resulting from the BSE risk assessment undertaken by the Harvard Center for Risk Analysis.

4. Argentina reported that it had reviewed the measure and amended the provisions in Annex II which contained the country ranking based on a risk assessment. These amendments would be undertaken soon. Argentina was completing its analysis of the additional information submitted by Canada, and a reply would soon be provided bilaterally.

5. In April 2003, Canada reported that the authorities in Argentina and Uruguay had agreed to undertake their own BSE risk assessments. The United States noted that Argentina's resolution allowed for the re-categorisation of the BSE status of the United States. However, a significant amount of scientific evidence had been provided to Argentina which exceeded the OIE criteria for recognition as a BSE-free country. Any restrictions were unjustified and Argentina was requested to lift its restrictions on the importation of sweet breads. Argentina reported that substantive progress had been made on this issue and was confident that further bilateral consultations would result in its resolution.

6. In September 2004, Canada informed the Secretariat that the issue had been resolved with Argentina.

AUSTRALIA

CONCERNS RELATED TO MEASURES MAINTAINED BY AUSTRALIA

Plant Health

2. Australia – Restrictions on table grapes

Raised by:	Chile
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, para. 216)
Relevant document(s):	
Solution:	Not reported

7. In October 2004, Chile stated that in 1998 Australia was requested to indicate its market access requirements for table grapes. Following initial meetings between the regulatory agencies, Chile understood that the import risk analysis would last approximately 12 months. A number of technical meetings had since taken place, however, a solution had not been reached despite the provision of all required technical information. The undue delays and changes in the procedures undertaken by Australia were a concern to Chile. Australia noted the concerns expressed by Chile and indicated its commitment to work with Chile to finalize the import risk analysis as quickly as possible.

BAHRAIN, KUWAIT, OMAN, QATAR, UNITED ARAB EMIRATES

CONCERNS RELATED TO MEASURES MAINTAINED BY BAHRAIN, KUWAIT, OMAN, QATAR AND UNITED ARAB EMIRATES

Food Safety

3. Bahrain, Kuwait, Oman, Qatar and United Arab Emirates – Import restrictions on Spanish olive oil

Raised by:	European Communities
Supported by:	
Dates raised:	June 2003 (G/SPS/R/30, para. 166), June 2004 (G/SPS/R/34, para. 17), October 2004 (G/SPS/R/35, para. 58)
Relevant document(s):	
Solution:	Not reported

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

9. In June 2004, the European Communities raised concerns over import restrictions on Spanish pomace olive oil imposed by some Gulf countries. After an isolated safety incident in 2001, some Members applied restrictive measures to this product. Since 2001, most Members had gradually lifted the import ban, except the Gulf countries. These products no longer were a risk to human or animal health, as corrective measures had been quickly and properly applied by the competent authorities of

Spain. Bahrain, Kuwait, Oman, Qatar and the United Arab Emirates were requested to immediately lift the ban on any type of olive oil imported from the European Union as the ban was not based on any scientific evidence.

10. In October 2004, the European Communities stated that bilateral consultations were held with several Gulf countries prior to the meeting to address restrictions imposed on Spanish olive oil by Bahrain, Kuwait, Oman, Qatar and the United Arab Emirates. The European Communities were hopeful for a prompt resolution of the issue and would also be holding bilateral meetings with Oman and Kuwait.

11. In February 2005, Oman reported that it had lifted the ban on pomace olive oil from Spain.

BARBADOS

CONCERNS RELATED TO MEASURES MAINTAINED BY BARBADOS

Plant Health

4. Barbados – Restrictions on citrus

Raised by:	Venezuela
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, para. 218)
Relevant document(s):	
Solution:	Not reported

12. In October 2004, Venezuela stated that in the last two years Barbados had applied restrictions to shipments of citrus from Venezuela without demonstrating the existence of any pests or diseases. Several bilateral consultations had taken place but a solution had not been reached. Barbados was asked to explain why these restrictions on citrus from Venezuela continued to be applied.

13. Barbados stated that the actions taken were consistent with their Plant Pest and Disease Import Control Act and Article 6 of the SPS Agreement. Barbados was willing to discuss the issue further bilaterally and within the framework of the Free Trade Agreement (FTA) negotiations between CARICOM and Venezuela. At the last meeting both parties had agreed to allow SPS experts to visit and inspect each other's countries and Venezuela had offered to cover part of the costs. The CARICOM secretariat had since informed Venezuela of the experts that had been nominated but no arrangements had been put in place for the visit.

BOLIVIA

CONCERNS RELATED TO MEASURES MAINTAINED BY BOLIVIA

Animal Health and Zoonoses

Concerns related to FMD

5. Bolivia - FMD trade restrictions

Raised by:	Argentina
Supported by:	
Dates raised:	March 2002 (G/SPS/R/27, para. 30)
Relevant document(s):	Raised orally
Solution:	Resolved

14. In March 2004, Argentina informed that it was engaged in bilateral consultations with Bolivia on this matter.

15. In March 2004, Argentina indicated that the issue of Bolivia's FMD trade restrictions had been resolved with Bolivia.

BRAZIL

CONCERNS RELATED TO MEASURES MAINTAINED BY BRAZIL

Animal Health and Zoonoses

Concerns related to TSEs

6. Brazil – Notification G/SPS/N/BRA/74 and 75 on BSE-related measures

Raised by:	Canada
Supported by:	United States
Dates raised:	April 2003 (G/SPS/R/29, paras. 91-93), June 2003 (G/SPS/R/30, para. 163)
Relevant document(s):	G/SPS/N/74 and 75
Solution:	Not reported

16. Canada expressed concern over the way Brazil applied the EC geographical BSE risk (GBR) system as the basis for classifying countries according to their BSE risk. Canada requested that Brazil conduct its own BSE risk analysis and classification of Canada and stated that it had sent a copy of its BSE risk assessment to the Brazilian authorities for their consideration.

17. The United States also questioned Brazil's use of the EC risk assessment classifications and noted that the European Communities had stated that its risk assessment classification system was not meant to serve as an international standard. Chapter 2.3.13 of the OIE International Health Code established the criteria for the determination of BSE risk of a country or region. The United States met the OIE criteria for a country free of BSE and had completed a risk assessment on all the factors for BSE occurrence. Active surveillance for BSE continued at levels far exceeding those of the

international standard and a strong BSE awareness programme had been developed for veterinarians, farmers and others working with ruminants. The OIE Code recognized that certain tissues could be traded if they originated in countries, such as the United States, which was free of BSE. The United States believed that any measures against its exports of cattle, beef or any other products because of BSE were unjustified and not consistent with WTO obligations.

18. Brazil noted that human health concerns were at the root of the measures which referred to both the OIE international standards and the EC classification system. Thus far, Brazil had not been able to conduct a risk assessment for all countries and the provision of Canada's risk assessment would assist the Brazilian authorities in this regard. Brazil would take into consideration decisions reached at the OIE International Committee meeting in May 2003 when reviewing its measures.

19. In June 2003, Brazil reported that it had notified six regulations relating to BSE.

20. In September 2004, Canada informed the Secretariat that the issue had been resolved with Brazil.

Plant Health

7. Brazil – Import requirements for seed potatoes

Raised by:	European Communities, Canada
Supported by:	Canada
Dates raised:	June 2002 (G/SPS/R/27 , paras. 24-26), November 2002 (G/SPS/R/28 , paras. 63-68), October 2003 (G/SPS/R/31, paras. 21-22), June 2004 (G/SPS/R/34, paras. 55-56)
Relevant document(s):	Raised orally
Solution:	Resolved with Canada

21. The European Communities reported that on 13 November 2001, the Brazilian authorities had given notice of new measures on imports of seed potatoes that Brazil had notified new measures on imports of seed potatoes, but had provided no delay for their implementation, no technical justification and had not respected the need for transparency. As one of the main suppliers to Brazil, the European Communities had commented on the measures, but Brazil's initial response had not addressed the EC's concerns and, in particular, had not identified the pest risk assessment justifying its measure. The requested information had been provided during bilateral consultations held before the SPS Committee meeting, and the European Communities looked forward to continuing the bilateral process with Brazil. Canada expressed concern with Brazil's required export certification for non quarantine regulated pests, in contradiction to internationally agreed principles and practices. Canada was also involved in bilateral discussion with the Brazilian authorities and had requested Brazil to withdraw its measure. Brazil indicated that it hoped subsequent technical consultations would resolve the issue.

22. In November 2002, Canada expressed concerns regarding Brazil's required certification for pests that were not of economic significance nor a significant risk to plant health. Canada considered this to be an issue of quality that was more appropriately resolved between the buyer and the seller, and not by government certification schemes. Although Canadian technical officials were working with Brazil to complete a risk assessment, this issue was not being resolved as quickly as warranted. The European Communities requested Brazil to modify its measures on the basis of the technical arguments and proposals that had been made bilaterally and requested Brazil to postpone the implementation of these measures. The United States shared the concerns expressed by both Canada

and the European Communities concerning the disruption of trade in seed potatoes and requested Brazil to revise their policy as soon as possible.

23. Brazil noted that consultations on the issue of seed potatoes had been carried out for some time. Brazilian experts were considering a new proposal from the European Communities and hoped to provide a reply as soon as possible. The Brazilian Directive aimed at enhancing market opportunities in relation to previous regulations by creating two new categories of imports for seed potatoes. Brazil was interested in diversifying their source of suppliers of seed potatoes given the strategic importance of the sector for Brazil. National producers were subject to the same considerations applicable to foreign providers, and his country's motivation could not be construed as restricting market access for seed potatoes. Brazil invited the European Communities to send a team of experts to become familiar with their system, and witness the fact that national producers were subject to the same considerations as the foreign suppliers. With respect to the comments made by Canada, Brazil recalled that the matter had been extensively discussed by authorities from both countries. The Brazilian legislation required that exporters of seed potatoes to Brazil had to have a certification system in place; apparently this was not the case for Canada. Brazil added that the concerns voiced by the United States would be transmitted to the competent authorities.

24. Canada clarified that Canada had a certification system for seed potatoes but that the certification system did not go into minor details on issues of quality. In response to Brazil's invitation, the European Communities suggested that Brazil should send a team of experts to inspect the production and food safety conditions within the European Communities.

25. In October 2003, the European Communities reported that following discussions with Brazil in October 2002, the European Communities had presented a proposal for a possible solution which Brazil had agreed to study. Brazil explained that it was in the process of discussing new regulations and hoped that the issue would be resolved shortly.

26. In June 2004, Canada reported that the issue of Brazil's import requirements for seed potatoes had been resolved, and Brazil had made a number of adjustments to its regulation of non-quarantine pests. Canada reminded Members of the importance of notifying their SPS measures sufficiently in advance to provide an opportunity to comment before regulations were finalized to avoid future problems of this nature. Brazil concurred that the issue had been resolved.

CHILE

CONCERNS RELATED TO MEASURES MAINTAINED BY CHILE

Animal Health and Zoonoses

Concerns related to TSEs

8. Chile - Pet food import requirements

Raised by:	Argentina
Supported by:	United States
Dates raised:	March 2002 (G/SPS/R/26, paras. 21-23)
Relevant document(s):	G/SPS/N/CHL/104, G/SPS/GEN/302
Solution:	Resolved

27. Argentina raised concerns about Chile's draft standard that would require imports of pet food containing meat and bonemeal from ruminants to undergo thermal treatment (G/SPS/N/CHL/104).. This requirement was stricter than the OIE recommendations and lacked sufficient scientific grounds and risk analysis to justify this higher level of protection (G/SPS/GEN/302). The EU Scientific Steering Committee had given Argentina a Level 1 rating, i.e. "highly unlikely that domestic cattle are (clinically or pre-clinically) infected with BSE agent". The United States indicated that the OIE Animal Health Code did not recommend that countries free of BSE undertake the treatment outlined in the notification. The United States hoped that the Chilean authorities would take the results of the Harvard Risk Analysis into account.

28. Chile stressed that a distinction had to be made between countries free of BSE and countries free of TSEs; the draft Chilean measure also included the latter within its scope. Chile further clarified that the procedures had to be applied to raw materials in pet food and not to the final product.

29. In March 2004, Argentina reported that the issue of Chile's import requirements for pet food had been resolved.

Concerns related to FMD

9. Chile - FMD restrictions

Raised by:	Argentina
Supported by:	Brazil, United States
Dates raised:	October 2001 (G/SPS/R/25, paras. 90-91), March 2002 (G/SPS/R/26, paras. 40-41), June 2002 (G/SPS/R/27, para. 126)
Relevant document(s):	G/SPS/N/CHL/102
Solution:	Resolved

30. 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.

31. In March 2002, Argentina referred to Chilean notification G/SPS/N/CHL/102 on fresh and frozen meat controls. It appeared Chile would permit imports from countries in one of two categories: FMD free without vaccination or FMD free with vaccination. The draft Chilean regulation did not allow for the import of fresh or frozen bovine meat from countries with zones infected with FMD. As such, the requirement was more demanding than the OIE Animal Health Code which permitted imports if risk mitigation procedures were followed in countries where FMD was present. Argentina requested Chile to amend its draft regulation to reflect the OIE code, or to show sufficient scientific grounds for not applying the international reference standard. Brazil supported Argentina and the United States stated that they had sent written comments to Chile and hoped that these comments would be taken into account.

32. Chile explained that the entry into force of the measures in question had been postponed twice to enable other trading partners to make additional comments. Controlling the 1987 outbreak of FMD

in Chile had cost $8.5 million and forced the eradication of 30,000 animals – a considerable cost for Chile. Nevertheless, Chile planned to allow for the possibility of importing from countries not recognized as FMD free by the OIE, on the basis of a risk assessment by the Chilean authorities. In the case of Argentina, Chile had not learnt of the FMD outbreak in that country through their bilateral usual channels so the normal risk analysis procedures could not be applied and emergency measures had had to be instituted.

33. In June 2002, Argentina reported that progress had been made towards resolving this issue at bilateral meetings.

34. In March 2004, Argentina reported that the issue of Chile's FMD restrictions had been resolved.

CHINA

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINA

Animal Health and Zoonoses

Other Animal Health Concerns

10. China – Measures on US poultry

Raised by:	United States
Supported by:	Canada
Dates raised:	October 2004 (G/SPS/R/35, paras. 26-29)
Relevant document(s):	
Solution:	Not reported

35. The United States raised concerns over China's nation-wide ban on US poultry products following the detection of low pathogenic avian influenza in the state of Delaware in February 2004. The import ban was not modified accordingly when highly pathogenic avian influenza was detected in the state of Texas, instead, it was applied to the entire territory of the United States despite the fact that the highly pathogenic avian influenza outbreak was confined to a limited area. The outbreaks were brought under control and eradication, cleaning and disinfection of the highly pathogenic infected premises was completed on 23 February 2004. On 20 August 2004, trading partners were advised that the six-month period prescribed by the OIE had elapsed and that the United States was free of highly pathogenic avian influenza. Despite this, China still maintained the ban on poultry products from the entire territory of the United States. These restrictions were not scientifically justified and were inconsistent with SPS obligations. China was requested to lift the ban immediately and to ensure that future implementation of emergency measures were consistent with Article 6 of the SPS Agreement. Canada noted similar concerns with China maintaining a comprehensive ban when regionalized measures were the appropriate response, and sought the removal of all measures with respect to Canada.

36. China stated that provisional emergency measures were adopted early in 2004 to prevent the entry and spread of low and highly pathogenic avian influenza. A ban on the importation of US poultry and poultry products was therefore implemented. China had communicated with the United States to conduct on-site inspections with the objective of regionalizing its ban on avian influenza as well as the possibility of lifting the ban on US poultry. A risk assessment was being conducted and a

decision would be made based on the outcome of the risk assessment. China's actions were consistent with Article 6 of the SPS Agreement and OIE guidelines and recommendations.

Other Concerns

11. China – Lack of transparency for certain SPS measures

Raised by:	United States
Supported by:	
Dates raised:	March 2004 (G/SPS/R/33, paras. 32-33)
Relevant document(s):	G/SPS/N/CHN/22
Solution:	Not reported

37. The United States expressed concerns over China's failure to notify nearly 60 regulations covering food, forestry and fishery products issued since 2002. Burdensome certification requirements for fresh, chilled and frozen aquatic products were imposed by AQSIQ Decree 31, which entered into force on 1 July 2003, but were not notified to the WTO. Despite holding bilateral consultations with China, no progress had been made on this issue. The United States urged China to comply with its SPS obligations and to notify new regulations so that Members had an opportunity to comment on them.

38. China stressed that it had notified 213 SPS measures since its accession and was committed in fulfilling its transparency obligations. The comment period was calculated from the day the Secretariat circulated the notification. There was no obligation to notify AQSIQ Decree 31 as it was an operational rule of a corresponding regulation that had already been notified to the WTO, and imposed no new technical requirements. However, in the interest of enhanced transparency, Decree 31 had been notified in August 2003 (G/SPS/N/CHN/22).

CUBA

CONCERNS RELATED TO MEASURES MAINTAINED BY CUBA

Animal Health and Zoonoses

Concerns related to FMD

12. Cuba – Import restrictions on spiced pork and salted meat products

Raised by:	Argentina
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras. 15-16), November 2002 (G/SPS/R/28, para. 182)
Relevant document(s):	G/SPS/GEN/325
Solution:	Resolved

39. Argentina indicated that exports of spiced pork and salted meat products to Cuba were prohibited due to Cuba's zero risk approach with regard to FMD (G/SPS/GEN/325). Argentina had submitted evidence that the FMD virus would not be transmitted as a result of the processing of these products. Moreover, Argentina's proposed certification fully complied with OIE standards.

Nonetheless, Cuba only permitted imports of bovine meat from countries free of FMD without vaccination. Argentina requested Cuba to lift its restrictions, or to provide sufficient scientific evidence to justify its measure. Cuba indicated that bilateral consultations had been initiated on the issue.

40. In November 2002, Argentina reported that a few technicalities needed to be sorted out before the issue was completely resolved.

41. In March 2004, Argentina reported that the issue had been resolved with Cuba.

EUROPEAN COMMUNITIES

CONCERNS RELATED TO MEASURES MAINTAINED BY EUROPEAN COMMUNITIES

Food Safety

13. European Communities – Notification G/SPS/N/EEC/150 on traceability and labelling of genetically modified organisms and food and feed

Raised by:	United States, Canada, Argentina
Supported by:	Australia,
Dates raised:	March 2002 (G/SPS/R/26, paras. 57-62), November 2002 (G/SPS/R/28, paras.95-96), April 2003 (G/SPS/R/29, paras. 88-90); March 2004 (G/SPS/R/33, paras. 43-47)
Relevant document(s):	G/SPS/N/EEC/150, G/SPS/N/EEC/149, (G/SPS/GEN/354), G/SPS/GEN/337 and 338
Solution:	Not reported

42. The United States specified that the EC traceability requirement was to apply to all biotech food and feed products at all stages of placing the product on the market. The stated objective was to facilitate control of labelling claims, environmental monitoring and control of the product. Food processors would be obliged to maintain specific information at each stage of placing the product on the market, including details as to whether the product contained or was produced from biotech products. As a general rule, if a product contained ingredients consisting of biotech products or produced from biotech events, these must be identified. This included products made from but not containing biotech products, such as soybean oil. The United States believed that this proposal would be expensive to implement, but would not be enforceable nor would it achieve its stated objectives.

43. The United States was further concerned that the measure was not targeted at health risks, and applied to products already approved for use within the European Communities. Traceback systems for food safety had been effectively used to recall food in the United States in response to health problems, based on batch and lot numbers on packages. However, the proposed traceability system would be applied across-the-board to products whose safety had already been assessed. Before adopting the measure the United States urged the European Commission to assess the feasibility of applying the measure reliably and accurately; consider less trade restrictive means to achieve the objectives and evaluate the regulatory impact of the proposal.

44. Australia indicated that it had submitted detailed written comments that questioned the scientific basis for the EC measures, the international standards to be used, and the nature of the risk assessment underpinning the EC measures. Australia also questioned whether a less trade-restrictive measure could be used, and why the traceability system for GM foods differed substantially from that for other foods. Argentina shared the concerns raised by the United States and Australia.

45. Norway indicated doubts as to whether the SPS Agreement was relevant to the issue of GMOs and added that Norway strongly believed that labelling and traceability were not contrary to WTO obligations. The EC regulations took account of the Codex, the Cartagena Protocol and the OECD guidelines. According to the Codex guidelines, food labelling should be used to avoid misleading or confusing the consumer with regard to the true nature of a food. Consumers' distrust in food products would be greater if labelling and traceability were not required. Norway believed that the EC measure addressed a legitimate objective that was not excessive in relation to its purpose. Cyprus stated his country's support of the EC position regarding information to consumers.

46. The European Communities stated that all comments would be considered and communicated to the appropriate bodies. Current labelling requirements in the European Communities required information on ingredients included in food products; all that was added in terms of labelling was to ensure the inclusion of GM products within the general requirements. There were four objectives of traceability: (1) to recall products in case of an unforeseen problem; (2) to monitor potential risks for the environment; (3) to control the accuracy of information provided on the label; and (4) to inform consumers about what they ate and to avoid deceptive practices. The EC Commission considered that these four objectives were primarily related to the TBT Agreement, and had notified this proposal to the SPS Agreement only for transparency.

47. Canada observed that one of the stated objectives of the proposed regulation was to provide a high level of protection of human health. Canada accepted that consumers had the right to know many things, but found troublesome that these regulations focussed on products made from GM products but not on products made with GM processing aids, even when there might be traces of the processing aids left in the product. Several industries in Europe used GM processing aids. The selective focus was also troubling in that consumers did not need to be informed if products were derived from mutagenesis, another form of genetic alteration. The focus of the EC regulations was overly specific and selective. Furthermore, the mandatory nature of the traceability system created problems especially for enforcement. Canada noted that no international standard existed in this area; the Biosafety Protocol was not yet in effect and neither it nor the OECD guidelines were referred to in the SPS Agreement. Canada looked forward to a scientific assessment of the needs, challenges and benefits of the proposed mandatory traceability system. In November 2002, Argentina drew attention to the 21 questions for which his country was seeking a written response from the European Communities (G/SPS/GEN/354). Argentina enquired as to whether the latest version notified by the European Communities included the amendments made by the European Parliament. The European Communities noted that they had received the questions from Argentina at a late date, and would provide answers to the questions in writing. The European Communities usually notified a draft text to the WTO to allow Members enough time to comment while the proposed regulation was being circulated in the Parliament and Council. Discussions were still underway in these two bodies and as soon as a final regulation was adopted it would be notified to the SPS Committee for information.

48. In April 2003, Argentina enquired whether the European Communities were in a position to answer specific questions it had raised in the last Committee meeting on the proposed traceability and labelling legislation. The European Communities responded that the additional questions submitted by Argentina were being studied and that a reply, based on the new version of the two legislative proposals, was being finalized. The European Communities also stated that detailed answers had already been given to many questions raised by Argentina in documents G/SPS/GEN/337 and 338.

49. In March 2004, the United States noted that the EC rules on traceability and labelling of genetically modified organisms and on food and feed would come into effect in April 2004 but many questions and uncertainties remained. The European Communities were requested to delay the implementation and enforcement of the regulations until the implementing guidance on sampling and testing was also issued. Canada questioned the scientific justification of the regulations and expressed concern that burdensome documentation and other requirements were placed on products based upon their production method. The traceability and labelling requirements were ambiguous given the absence of segregation systems and of internationally accepted testing methodologies to validate the presence of genetically modified foods. Australia requested that the European Communities consider less trade-restrictive alternatives.

50. The European Communities explained that EC regulation 1830/2003 had been adopted on 22 September 2003. The measure was considered more of a TBT issue but was notified to the SPS Committee at the request of several Members. The regulation supported EC consumer freedom to choose or avoid products derived from biotechnology and provided a harmonized framework that encouraged efficient functioning of internal markets. The regulation also allowed for the rapid withdrawal of products of risk to the health of consumers, animals, and the environment from the EC market.

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

Raised by:	Argentina, Australia, Bolivia, Brazil, The Gambia, India, Indonesia, Malaysia, Philippines, Senegal, Thailand
Supported by:	Canada, Colombia, Mexico, Pakistan, Paraguay, Peru, Philippines on behalf of 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), March 2002 (G/SPS/R/26, para. 140), June 2002 (G/SPS/R/27, paras. 38-39), November 2002 (G/SPS/R/28, para. 175), April 2003 (G/SPS/R/29, paras. 51-52), June 2003 (G/SPS/R/30, paras. 66), March 2004 (G/SPS/R/33, paras. 48-49)
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, G/SPS/R/28
Solution:	Maximum levels for some products and sampling procedures revised.

51. 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.

52. 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.

53. 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.

54. 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.

55. 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.

56. 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.

57. 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.

58. 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.

59. 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.

60. 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.

61. 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.

62. In March 2002, Bolivia indicated that there had been no progress on the issue. The European Communities reported that it had agreed to accept pre-shipment certification from accredited laboratories in Bolivia in order to avoid costly sampling of the product upon arrival in Europe. However, no further information had been provided by Bolivia regarding the accreditation of laboratories nor a proposal for the pre-shipment certificate. Nonetheless, shipments of Brazil nuts from Bolivia met all of the EC's requirements, and the quantity of shipments continued to grow.

63. In June 2002, Bolivia noted that although the larger Bolivian exporters were able to meet the EC requirements at considerable costs and difficulties, smaller exporters could not fulfil the EC's requirements. Bolivia requested information on the manner in which the EC requirements for a quality control system were being applied. The European Communities stressed again that no consignments of Brazil nuts from Bolivia had been blocked due to aflatoxin. In fact, both the volume and value imported from Bolivia had increased in recent years. The EC Scientific Committee for Food had identified aflatoxins as among the most carcinogenic and mutagenic substances known, and intake had to be reduced to the lowest levels possible. Although the European Commission had agreed to accept certification from authorized Bolivian laboratories, Bolivia had not provided the necessary information.

64. In April 2003, Bolivia stated that a proposal had been submitted to the European Communities to strengthen the Bolivian system of certification for export of Brazil nuts. He hoped

that a technical exchange would take place on this proposal in the near future. The European Communities noted that its authorities would need some time to examine the Bolivian proposal. The European Communities favoured certification at the point of departure by accredited laboratories and commended the Bolivian authorities for their proposal.

65. In June 2003, Bolivia informed Members that a bilateral meeting had resulted in a favourable outcome and Bolivia should soon receive the required permission. The European Communities indicated that the procedures for technical assistance were now in place and hoped the issue would soon be regarded as solved.

66. In March 2004, Bolivia informed Members that bilateral consultations were held with the European Communities on 16 March 2004 and details of the assessment visit for the certification of chestnuts for export to the European Communities had been finalized. The European Communities stated that it would continue to cooperate with Bolivia to finalize the assistance programme.

15. European Communities (Germany) – Notification G/SPS/N/DEU/9 and Add.1 on maximum tolerance levels for ocratoxin A in coffee

Raised by:	Colombia, Papua New Guinea
Supported by:	Bolivia, Brazil, Chile, El Salvador, Guatemala, Mexico, Peru, Nicaragua, Cuba, India, Ecuador, Bolivia, Dominican Republic, Costa Rica
Dates raised:	October 2003 (G/SPS/R/31, paras. 47-49), March 2004 (G/SPS/R/33, paras.34-39)
Relevant document(s):	G/SPS/N/DEU/9 and Add.1, G/SPS/GEN/434, G/SPS/GEN/470
Solution:	Not reported

67. Colombia stated that on 17 June 2003, Germany had notified a draft regulation for MRLs for ocratoxin in products, including soluble and roasted coffee. In September 2003, the application of the measure had been postponed until December 2003. Colombia believed that the MRL was disproportionate to the risks and that the scientific evidence regarding risks to human health was inconclusive. The economic losses could be significant for Colombia as it exported 1.7 million bags of coffee to Germany, which was equivalent to 17 per cent of its total coffee exports. The testing could result in 6 per cent of all coffee entering Germany from Colombia being rejected. Colombia questioned the relationship between this measure and the EC regulations.

68. Bolivia, Brazil, Chile, El Salvador, Guatemala, Mexico and Peru shared the concerns expressed by Colombia. Brazil noted that the higher MRL for soluble product compared to the roasted coffee was unusual, as normally products for direct consumption had lower levels of MRLs.

69. The European Communities explained that each EC member State retained the right to adopt national legislation for the protection of human health when no EC standard existed. Since there was no MRL ocratoxin A for coffee in the European Communities, Germany could establish its own MRLs. The measure was based on new scientific evidence. The European Commission had organized a meeting between Colombian and German toxicology experts, and replies to Colombia's questions would be circulated to all Members shortly.

70. In March 2004, Papua New Guinea informed the Committee that it had submitted comments on Germany's measures on coffee in G/SPS/GEN/470. Colombia stated that written responses to its questions outlined in G/SPS/GEN/434 had not been provided by the European Communities. Germany had since informed Colombia of the approval of the Bundesrat Directive 713/03 by the Ministry of Consumer Protection, Food and Agriculture. Directive 713/03 changed the existing regulation of the MRLs for Ocratoxin A (OTA) in roasted and soluble coffee in Germany. Germany

also indicated that the European Communities would be notifying a similar measure for roasted, soluble and green coffee. Colombia was concerned about the impact of the measure on the marketing of coffee in Europe and requested the European Communities to respond to its questions.

71. Bolivia, Brazil, Costa Rica, Cuba, Dominican Republic, El Salvador, Ecuador, Guatemala, India, Mexico, Nicaragua, and Peru shared the concerns raised by Papua New Guinea and Colombia. Germany's MRLs for OTA in coffee were discriminatory and scientifically unjustified. Germany was requested to answer the questions previously posed by Colombia and to take into consideration the special needs of coffee exporting countries.

72. Codex explained that OTA, a mycotoxin contaminant, had been a standing agenda item of the Codex Committee for Food Additives and Contaminants (CCFAC) since its 23rd session in March 1991. A risk assessment of the consequences of establishing a maximum level of 5 micrograms/kg or 20 micrograms/kg for OTA in cereals and cereal products had been conducted based on food consumption data for European type diets. Cereals and wine were identified as major dietary contributors of the overall intake of OTA, while coffee and grape juice were considered minor contributors. The Joint FAO/WHO Expert Committee on Food Additives and Contaminants (JECFA) retained the previously established Provisional Tolerable Weekly Intake of 100 nonograms/kg of body weight and recommended that overall contamination of foods, especially cereals, should be lowered by appropriate agriculture, storage and processing practices. The conclusion of the JECFA evaluation was available from WHO as Technical Report Series 906. CCFAC would consider draft maximum levels for OTA in cereals at its 36th Session.

73. The European Communities stated that Colombia's questions were still under consideration by EC authorities and that a draft Codex standard for OTA levels in cereals was under discussion. MRLs for OTA had been established within the European Communities for a number of foods, but not for coffee. Germany therefore had the right to establish maximum OTA levels for coffee. The European Communities had already determined MRLs for OTA in cereals and derivative products under EC Directive 466/2001, latter modified by Directive 472/2002. As for beer, OTA levels were regulated indirectly by the maximum OTA limits set on barley. OTA levels for roasted and soluble coffee, wine, certain dried fruits and fruit juices would be determined by the end of 2004 and notified to the WTO in due course. EC Directive 2002/26 established the sampling methods and criteria used for the analysis of OTA levels in foods. The European Communities also stated that Germany had not rejected shipments of Colombian coffee due to excessive levels of OTA.

16. European Communities – EC maximum residue levels for pesticides on food (G/SPS/N/EEC/236 and 237)

Raised by:	China
Supported by:	
Dates raised:	June 2004 (G/SPS/R/34, paras. 49-51)
Relevant document(s):	G/SPS/N/EEC/243
Solution:	Not reported

74. China raised concerns that the maximum residue limits (MRLs) notified in G/SPS/N/EEC/236 and 237 were several times higher than the MRLs proposed by other developed countries and by the Codex Alimentarius Commission. The European Communities were requested to provide scientific justification for its measures or modify the MRLs according to relevant international standards. In addition, the European Communities were requested to extend the time period for implementation of the measure from the date of adoption to one year and provide China with the testing methods for the concerned MRLs.

75. The European Communities stated that it was prepared to address China's concerns on notification G/SPS/N/EEC/243, as indicated in the draft agenda, but was not prepared to provide specific answers to China's concerns on the notifications G/SPS/N/EEC/236 and 237. However, a detailed written reply would be sent to China shortly. The European Communities clarified that the proposed date of entry into force in notifications G/SPS/N/EEC/236 and 237 should read 19 January 2005 instead of 19 January 2004. Furthermore, some of the Codex MRLs mentioned by China were proposed for revocation at the next meeting of the Codex Alimentarius Commission. EC MRLs for pesticide quantities in foodstuffs were higher than international standards in four cases: (1) phyto-pharmaceutical products which did not lead to detectable levels of pesticides residues in foodstuffs; (2) unauthorized use of the pesticides; (3) EC authorizations which were unsupported by technical and scientific evidence; and (4) residues present in imported foods without sufficient scientific evidence indicating their food safety. In this case, the European Communities undertook its own assessment and was also willing to consider data submitted by the exporting country.

17. European Communities – EC regulation on Ocratoxin A in coffee (G/SPS/N/EEC/247)

Raised by:	Colombia
Supported by:	Bolivia, Brazil, Chile, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Kenya, Peru,
Dates raised:	October 2004 (G/SPS/R/35, paras. 61-67)
Relevant document(s):	G/SPS/GEN/475, G/SPS/GEN/490, G/SPS/GEN/515, G/SPS/R/33 (paras. 34-39), G/SPS/N/EEC/247
Solution:	Not reported

76. Colombia reported that the European Communities had responded to Colombia's questions in G/SPS/GEN/475. The EC response was contained in G/SPS/GEN/490 and explained that Germany was able to set maximum levels of Ocratoxin A (OTA) in roasted and soluble coffee as harmonized EC standards were not yet established. On 1 September 2004, the European Communities issued G/SPS/N/EEC/247, notifying Members of the EC proposal to establish levels for OTA in roasted and soluble coffee.

77. Colombia continued to be concerned about the impact of the measures on the marketing of coffee in Europe and had raised several questions as outlined in G/SPS/GEN/515. The European Communities were asked to explain why OTA levels were set for coffee when coffee contributed only 8 per cent of the intake of OTA in the European diet compared with cereals and cereal products which contributed 50 per cent of the intake of OTA. Scientific justification for the levels of OTA set for coffee was requested from the European Communities, as well as an explanation of the method used to determine the OTA levels. The European Communities were also requested to explain why the OTA levels for coffee and cereals and cereal products were the same when the intake of OTA was higher in cereals and cereal products than in coffee. Moreover, if the OTA levels for beer were indirectly controlled by its main input, malt, why were not the OTA levels for soluble coffee indirectly controlled by its main input, roasted coffee. Finally, the European Communities were asked to explain why there was a need to protect public health with regards to coffee and not beer. Colombia suggested that the European Communities consult studies on OTA toxicology as a starting point in establishing maximum OTA levels in green coffee. The entire production chain would need to be regulated when establishing maximum levels of OTA for green coffee which would be both impractical and counterproductive as additional infrastructure and storage facilities would be needed. Furthermore, the risks of formation of mycotoxins were increased during prolonged periods of storage due to the condensation and re-humidification process in the beans. OTA levels should not be set until there was scientific justification. The Codex Alimentarius was requested to consider the issue of maximum levels of OTA in coffee in the joint FAO/WHO Expert Committee on Food Additives (JECFA).

78. Bolivia, Brazil, Chile, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Kenya and Peru supported the statements made by Colombia and requested a copy of the EC response to the questions posed by Colombia. Chile stated that the Committee should include this issue under the procedure to monitor the use of international standards.

79. The Codex Alimentarius reported that little progress had been made on this issue in Codex since the March meeting of the SPS Committee. Codex had not established Maximum Residue Levels (MRLs) for green and roasted coffee but had been working to establish MRLs in cereals for several years. However, this was still at the elaboration stage due to the lack of consensus on the numerical limits. The Codex Committee for Food Additives and Contaminants (CCFAC) had requested JECFA to include the risk assessments on OTA for evaluation by 2006. At the last meeting of the CCFAC, a suggestion was made to include new work in Codex on the development of a code of practice to reduce mycotoxin contamination in coffee and cocoa. This proposal will be discussed at the next CCFAC meeting in April 2005.

80. The European Communities explained that once EC harmonized standards were established, national standards ceased to be effective. From the perspective of the exporting country, the EC harmonized standards had the advantage of being lower than the national standards of many member States. The responses to Colombia's questions would be made available through the Secretariat and the European Commission's website contained information on the methodology used to determine the level of OTA in coffee. The EC draft regulation covered ground and roasted coffee but not green and soluble coffee. MRLs for OTA had already been established for grains and its by-products and raisins. Furthermore, MRLs for OTA for wine and wine based beverages had been proposed. While studies had concluded that cereals and cereal-based products were the main sources of consumer exposure to OTA, wine, grape juice and roasted and soluble coffee also contributed significantly to consumer exposure. The European Communities would reassess its decision on the basis of the results of the toxicology studies on OTA that would be available in 2006.

18. European Communities – EC regulation on aflatoxins and Ocratoxin A in foods for infants and young children (G/SPS/N/EEC/223/Add.1)

Raised by:	China
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 68-69)
Relevant document(s):	
Solution:	Not reported

81. China raised concerns over EC notification G/SPS/N/EEC/223 and addendum on aflatoxins and OTA in foods for infants and young children. Studies conducted by JEFCA concluded that the acceptable level of risk was the same when the level of aflatoxin B1 was reduced from 20 to 10 mg/kg and when the level of aflatoxin M1 was reduced from 0.5 to 0.05 mg/kg. Any further reductions of the levels of aflatoxins B1 and M1 would have no significant impact on public health safety. Furthermore, JECFA, in its 37th Session, had established a weekly intake of OTA of 112 mg/kg. This minimum intake was subsequently lowered to 100 mg/kg at the 44th Session of JECFA and remained unchanged in the 56th Session based on results of risk assessments carried out on OTA levels in cereals and cereal based products. The European Communities was requested to provide scientific justification for its measures and to consider the impact of the measures on international trade.

82. The European Communities stated that the EC regulation amending Commission regulation 466/2001 concerning aflatoxins and OTA in foods for infants and young children applied to products placed in EC markets and was effective from 1 November 2004. Although China had not submitted comments during the comment period, China's comments would be taken into account and a written

response would be provided. The JECFA studies referenced above were based on intake levels of adults, rather then on intake levels of infants. The European Communities had therefore considered it necessary to establish maximum levels of aflatoxins of B1, M1 and OTA for infants and young children. These maximum levels were achievable and substantiated by data. Furthermore, they had little trade implications, as finished foods for infants and young children were not traded in significant amounts.

19. European Communities – EC proposed regulation on maximum residue levels of pesticides (G/SPS/N/EEC/196 and Add.1)

Raised by:	China, Argentina
Supported by:	ASEAN, Bolivia, Brazil, Chile, China, Colombia, Cuba, Honduras, Mexico, Paraguay, Uruguay, ASEAN countries
Dates raised:	June 2003 (G/SPS/R/30, paras. 75-77), October 2004 (G/SPS/R/35, paras. 76-79
Relevant document(s):	G/SPS/N/EEC/196 and Add.1
Solution:	Not reported

83. China indicated that it was highly concerned with the approach taken by the European Communities on maximum residue levels in plant and animal products and had submitted comments on the notification. China believed that the new rules were not in compliance with the SPS Agreement and requested information on the risk assessment undertaken by the EC. Brazil noted that it had previously raised similar concerns and requested a three year postponement of the measure. Chile expressed support for the position taken by China and Brazil and also requested information on the risk analysis and the scientific basis for the maximum residue levels. Brazil queried whether, for those pesticides where there was no scientific evidence, a precautionary approach would be used.

84. The European Communities replied that the draft rule replaced and simplified four existing directives. The new rule was scheduled to enter into force on 1 January 2005 and would lead to a harmonization of maximum residue levels in the European Communities. The transitional process would be very long and additional comments could still be made. The objective was to examine 325 substances in order to update the available information and to set maximum residue limits since zero level was difficult to achieve. The new rule would not lead to a withdrawal of given authorizations except for use within the European Communities. Imports from third countries would not be automatically banned, but could be accepted on the basis of maximum residue limits when it could be shown that these limits were sufficient to protect health. Members and the Codex Alimentarius were invited to submit comments on which levels of residues might be considered as acceptable.

85. In October 2004, Argentina raised concerns over EC notification G/SPS/N/EEC/196/Add 1. The proposed rule would seriously affect developing countries' agri-food exports. Of particular concern was the EC default level of zero for maximum residue limits set for products that had not being authorized or when data was unavailable to demonstrate the safety of the residues. This requirement was implemented for economic reasons rather than for food safety considerations. Moreover, many of the maximum residue limits set by Codex had not been accepted by the European Communities, especially those set before 1990. The European Communities should provide scientific justification for deviations from international standards as well as consider the economic impact of the implementation of its proposed regulation on trading partners.

86. ASEAN, Bolivia, Brazil, Chile, China, Colombia, Cuba, Honduras, Mexico, Paraguay, and Uruguay echoed the concerns raised by Argentina. Chile and Cuba asked what methodology was used in setting the default detection limit. The Philippines, on behalf of ASEAN countries, supported the statement made by Argentina and asked why the European Communities had not adopted relevant

Codex standards. The European Communities should provide a risk assessment if a higher level of protection than that achieved by the relevant Codex standards was adopted. Furthermore, developing countries lacked the technological and analytical capability to comply with the new default approach and this could have adverse economic implications for them.

87. The European Communities explained that a listing of all available risk assessment documents on approved MRLs had been made, including those MRLs for pesticides approved many years ago. Some of the risk assessments were no longer relevant today and so a reassessment of the pesticides was needed. The industry was requested to supply the relevant scientific and technical data to carry out these risk assessments. However, the industry was no longer interested in marketing some of the older pesticides and were not keen to fund research. Therefore, these pesticides were withdrawn from the list and a residue default level was set for them. The European Communities would, however, allow the use of these pesticides if furnished with relevant risk assessments from interested trading partners. Argentina was requested to provide its questions in writing so that detailed written replies could be communicated to all interested Members.

Animal Health and Zoonoses

Concerns related to TSEs

20. European Communities – Restrictions on the use of fishmeal

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), March 2002 (G/SPS/R/26, 31-32); June 2004 (G/SPS/R/34, paras. 134-136)
Relevant document(s):	G/SPS/GEN/256, G/SPS/GEN/264
Solution:	Not reported

88. 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).

89. 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.

90. 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.

91. 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.

92. In March 2002, Peru stated that there was a lack of political will on the part of the European Communities to reach a solution to this problem. Fishmeal posed no risk of BSE for human or animal health, but the EC measure created doubts among other countries, which resulted in a negative impact on fishmeal trade. Furthermore, as the EC measure had been extended indefinitely, it could no longer be justified as a provisional measure.

93. The European Communities noted that the measure was maintained due to demonstrated cases of cross-contamination detected through the EC's detection system. One tool which could help resolve this issue was a reliable test which could distinguish mammalian meals from fishmeal. Unfortunately, although under development, such a test would not be available in the near future. The European Communities requested Peru to provide evidence of trade disruption as a result of the EC measure, as no disruption was apparent in EU trade statistics.

94. In June 2004, Chile noted that the European Communities was reviewing the restrictive measures on fishmeal in cattle feed. Lifting the ban would require the development of a diagnostic test which would assure all EC member States that detection of contamination of fishmeal with bone- or meat-meal would be possible. Chile had received information that the diagnostic method had been standardized and the Food Chain and Animal Health Committee would vote on lifting the ban in September 2004. The European Communities were requested to provide further information concerning the possible date when the ban would be lifted. Peru also requested a written explanation from the European Communities.

95. The European Communities responded that results of the test were pending and that a written reply would be made available after the Food Chain and Animal Health Committee meeting in September 2004.

21. European Communities – Proposal on animal by-products

Raised by:	United States
Supported by:	Brazil, China, Australia, Canada
Dates raised:	April 2003 (G/SPS/R/29 paras. 40-45), June 2003 (G/SPS/R/30 paras. 47-49), October 2003 (G/SPS/R/31 paras. 27-30), March 2004 (G/SPS/R/33 paras. 53-55), June 2004 (G/SPS/R/34, paras. 39-41)
Relevant document(s):	G/SPS/N/EEC/103
Solution:	Not reported

96. The United States stated that EC regulation 1774/2002 would severely restrict or prohibit a range of animal by-products intended for use in feed, industrial or other non-food purposes. Due to the lack of transparency of this regulation, the lack of sufficient time and information for exporters to comply and the EC failure to adequately address the concerns of third countries, the United States requested a delay in the implementation of the regulation. The United States was also concerned about derogations for certain EC member States that were not available to third countries, the lack of scientific justification for the regulation and the lack of a risk assessment for the proposed inter-species feed ban. Brazil shared the concerns raised by the United States.

97. China requested the European Communities to delay the regulation's implementation until 1 May 2005. Australia stated that without clarifications and equivalence determinations, it would have difficulty in complying by 1 May 2003 and might seek a delay in the full implementation of the regulation. Canada stated that it did not see how practical implementation of this regulation would be possible by 1 May 2003 and was of the view that a delay in implementation was warranted and required.

98. The European Communities stated that the objectives of the draft regulation were to ban the recycling of dead animals, offer alternatives to denaturation, take account of environmental requirements, control traceability of sub-products and simplify the patchwork of existing legislation. Information meetings on 13 November 2002 and 28 March 2003 were organized and an explanatory document had been produced. The measures were based on solid science, even though no formal risk assessment had been conducted for each chapter of the text, and the European Communities were willing to make all relevant information available to trading partners. Certain EC member States and third countries had expressed concern over the date of entry into force of the regulation. As a result, the European Commission was studying transitional arrangements which would enable temporary flexibility on certain provisions. Any temporary flexibility or new measures on certification of third country products would be decided on and notified to WTO Members with a new deadline for comment.

99. In June 2003, China reported that it had submitted comments on the EC regulation on animal by-products but had not received any reply. China would need a transitional period of two years to adjust. The United States stated that concerns raised at the last SPS Committee meeting were still valid. The European Communities confirmed that comments made by China would be carefully examined and that China would receive a response. The European Communities would take a flexible view on transitional measures for third countries.

100. In October 2003, the United States reported that despite bilateral technical discussions and the lack of scientific risk assessments, disruption of US exports of pet food was likely. Canada welcomed the decision to postpone implementation of the regulation for third parties beyond 1 May 2003. EC member States benefited from 16 transitional measures to allow them to adjust to the new regulations,

and Canada asked to also benefit from such transitional measures. China requested a transitional review of the regulation and continued bilateral discussions.

101. The European Communities explained that transitional measures had been adopted for EC members States and additional time for compliance for all third parties allowed until 31 December 2003 (EC 1812/2003). Certification of imports had been reviewed and notified. The European Communities had decided to offer targeted transitional measures to third countries on a case-by-case basis. A technical agreement, based on comments received from Australia, Canada, China and the United States, would be notified shortly. The European Communities were awaiting the conclusions of a scientific review to produce the risk assessment which would be available in February 2004.

102. In March 2004, the United States expressed continued concern over the negative trade impact of EC regulation 1774/2002 which entered into force on 1 May 2004. This regulation was notified as G/SPS/N/EEC/103 but questions on its implementation remained even though the European Communities had granted a one-year delay in its enforcement. The European Communities had yet to publish the final text of the regulation and the US request for a risk analysis had gone unanswered. The European Communities were asked to clarify the remaining implementation questions and to delay enforcement of the regulation. Canada shared the concerns of the United States and requested the European Communities to provide information on its plans to formally adopt the derogations as well as provide details of any other transitional measures that had been or would be granted to third countries.

103. The European Communities recalled that the implementation of transitional measures were announced in the June 2003 Committee meeting and introduced new provisions that required EC member States to provisionally accept imports from third countries. With regards to the risk analysis, a report would be available at the end of March. The second postponement of EC regulation 268/2002 and delayed implementation of EC regulation 1674 should enable trading partners to adapt to new conditions for certification of imports into the European Communities. The European Communities was also studying the possibility of adopting measures regulating the use of gelatine, collagen and other products destined exclusively for technical and industrial applications and banning their use in food, cosmetic, pharmaceutical and medical products. A draft bill had been submitted to the permanent committee this week and the European Communities would keep the United States and Canada updated on this issue.

104. In June 2004, the United States commented that EC Regulation No. 1774 imposed new requirements on gelatine, tallow, pet food, yellow grease and other animal by-products not intended for human consumption. This regulation had been implemented on 15 June 2004, although product could arrive in the European Communities as late as 15 August 2004. Consultations had lead to derogations on hide, skins and tallow but the United States continued to be concerned about other provisions of the regulation, particularly those related to pet food and yellow grease. Canada expressed satisfaction that the European Communities had adopted two transitional measures requested by Canada. Since these complicated regulations had been put in place, the European authorities had indicated that a flexible enforcement strategy would be implemented until 15 August 2004. Although no problems had yet been reported by Canadian exporters, problems could arise with the end of "soft" enforcement in August.

105. The European Communities stated that based upon on-going consultations with the United States and Canada, the regulations were modified to include justified exemptions. The EC regulation allowed cooking oils (yellow grease) to be used for animal feed only when they came from the food industry and only when a reliable system of traceability had been established. Imported used cooking oils intended for technical purposes remained authorized without restriction. The use of animal carcasses judged unfit for human consumption in pet food had been prohibited based upon scientific information which indicated that the BSE epidemic had spread through recycling of infected bovine

material in bovine feed. A waiver had been implemented for the use of wild fish protein for feed for fish in fish farms. The European Communities indicated a willingness to discuss implementation of this regulation with Members concerned about potential trade restrictions.

Other Animal Health Concerns

22. European Communities – Notification G/SPS/N/EEC/208 on sanitary conditions for the importation of live material for apiculture

Raised by:	Argentina
Supported by:	Australia, New Zealand, United States
Dates raised:	October 2003 (G/SPS/R/31, paras. 42-44), March 2004 (G/SPS/R/33, paras. 56-58), June 2004 (G/SPS/R/34, paras. 27-29), October 2004 (G/SPS/R/35, paras. 51-52)
Relevant document(s):	G/SPS/N/EEC/208 and Add.1, G/SPS/N/ARG/71
Solution:	Not reported

106. Argentina stated it recognized the need to minimize the risks of introducing pests of apiculture and that it had its own measures (G/SPS/N/ARG/71). However, the EC measure, which restricted the importation of queen bees and accompanying working bees from third countries, was unjustified. The EC measure required exporting countries to prove that they were free of the small hive beetle (*Aethina tumida*) and of the *Tropilaelaps* mite. Argentina was free from the pests and considered the EC response to its comments unsatisfactory. Argentina requested the European Communities to defer implementation of the measure.

107. The United States expected that the new regulation would take into account disease free areas, for example, Hawaii was free from the two pests. Australia supported the US position and stated that the EC proposed requirement was unreasonable and needed to take into account disease free status. New Zealand supported the comments made by Argentina, the United States and Australia.

108. The European Communities stated that the first notification was of a draft decision to restrict the importation of queen bees and their escorts to stop the introduction of the two parasites. These two parasites, although not included on the OIE list, posed a serious risk as they damaged hives and caused economic losses. Comments from Members had been taken into account and amendments to the measure had been notified. Disease free zones and health certificates covering these two pests would enable the safe import of bees into the European Communities.

109. In March 2004, Argentina reiterated that the presence of the small hive beetle (*Aethina tumida*) and the *Tropilaelaps* mite had not been reported in Argentina. The European Communities had not taken into consideration the differing sanitary status of exporting countries creating export challenges for those countries that did not have the two pests. A bilateral meeting with the European Communities was held on 16 March 2004 to seek a practical solution to this problem. The United States requested the European Communities to consider the fact that the state of Hawaii was free from the two concerned pests.

110. The European Communities indicated that the two pests of concern were very difficult to eradicate once introduced into a territory because the treatments were difficult to implement, were not very effective, and left pesticide residues in the honey. The small *Tropilaelaps* mite, which transformed into a flying insect in the adult stage and could fly up to six kilometres per day, could have devastating effects on honey and other agricultural production. The proposed measures were not disproportionate to the risks. Bees could be allowed from third countries or from regions of third countries that had a competent veterinary service approved by the European Communities and where

the existence of the two pests was required to be notified. The bees must also be accompanied by a sanitary certificate issued by the competent authority declaring that the bees came from within a 30-kilometre radius of the beehive and that this area was free of the two pests. Argentina satisfied these two conditions. During bilateral consultations with Argentina, practical problems faced by Argentina in the implementation of the control measures had been identified and the European Communities had agreed to find alternative solutions to these problems.

111. In June 2004, Argentina stated that the requirements that hives should be subject to official check at the point of destination and queens transferred to new locations were not supported by scientific justification. Documentation confirming the absence of the concerned pests in Argentina had been provided to the European Communities and Argentina hoped that an upcoming bilateral meeting with the European Communities would resolve this issue. Australia and the United States also expressed concerns about the appropriateness of the EC measure. Australia considered that the measures were inappropriate for the management of the small hive beetle. The United States reported that honey bee exports from Hawaii to the European Communities had been halted, although the state of Hawaii was free of many of the pests covered by this measure. The certification requirements for honey bees from Hawaii should be modified to reflect the conditions there. The European Communities recalled that these rules had been introduced to preserve the parasite free status of honey bees in the European Union. The European Communities was prepared to review the legislation and border measures of Argentina and other countries, when documentation had been provided, in order to assess the possibility of instituting joint measures.

112. In October 2004, Argentina reported that studies confirming the absence of the parasites in the main exporting regions were made available to the European Communities and the final version would be submitted to the OIE. Despite having taken these measures, trade in queen bees from Argentina was still restricted. Argentina urged the European Communities for a prompt resolution of the issue as trade in queen bees was a seasonal activity. The European Communities stated that bilateral discussions were held with Argentina where it was explained that these measures were adopted to prevent the introduction of two particular bee parasites that were of serious risk to the EC bee population. The recent interception of a contaminated shipment from Portugal justified the protective measures adopted by the European Communities. Although Argentina had submitted eight reports, the European Communities were still not satisfied that Argentina's measures were sufficient to guarantee a parasite-free status. The reports did not indicate how particular geographical and climatic conditions would permit regionalizing the province of Buenos Aires. The European Communities were not in a position at this time to relax controls on bee imports from Argentina. Information received by the European Communities indicated that exports of Argentine bees were not affected during the 2004 season. However, the European Communities were prepared to discuss the impact of its measures on international trade with Argentina.

Plant Health

23. European Communities - Citrus canker

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

113. 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.

114. 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.

115. 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.

116. In March 2004, Argentina reported that the issue had been resolved with the European Communities.

24. European Communities – Deviation from international standard for wood packing material

Raised by:	United States
Supported by:	Canada, China, Mexico, Philippines
Dates raised:	October 2004 (G/SPS/R/35, paras. 30-37)
Relevant document(s):	
Solution:	Not reported

117. The United States expressed concerns over EC Directive 2004/102 which affected the importation of wood packing material. The Directive required the debarking of wood used in packing material in addition to the heat and fumigation treatment prescribed by ISPM 15. During the development of ISMP 15, IPPC Members concluded that there was insufficient scientific evidence to justify the debarking requirement as an additional risk management measure. The debarking requirement would disrupt trade and undermine efforts to increase international harmonization. The European Communities were requested to reconsider its measures or postpone the implementation of the debarking requirements until scientific justification was available.

118. New Zealand stated that countries or regions should not adopt unilateral measures for wood packing material that would cause the disruption of the global implementation of ISPM 15. However, there might be technical justifications for requiring bark-free ISPM 15 compliant wood packing material. Canada shared the concerns of the United States on the importance of achieving harmonization. ISPM 15 allowed for the introduction of debarking requirements only where it could be scientifically justified. The issue of debarking was under review by the international forestry quarantine research group. The European Communities and those countries introducing debarking requirements were requested to reconsider their measures until the completion of the international review. China, Mexico and the Philippines shared the concerns of the United States and urged

Members not to apply measures in excess of ISPM 15 in the absence of any scientific justification. Chile stated that its measures were under public consultation and it welcomed comments from Members.

119. The European Communities stated that EC Directive 2000/29 was adopted on 5 October 2004, establishing protective measures against the introduction and spread of harmful organisms to plant and plant products into the European Communities. These measures were notified on 10 November 2003 and would enter into force on 1 March 2005. There was some flexibility in the requirements for markings as specified in Annex 2 of ISPM 15 and in the conditions required for dunnage. For wood packing material manufactured, repaired or recycled before 28 February 2005, the requirements for the markings would not come into effect until 31 December 2007. The requirements for dunnage (except wood less than 6 mm thick) and processed wood would not come into effect until 31 December 2007. These products could be made from debarked wood that was free from pests. These requirements were included to ensure protection against future infestation or re-infestation once treatment had been completed. The current regulations were being considered by EC authorities in Brussels and the Committee would be informed of any changes.

Other Concerns

25. European Communities - Agricultural biotechnology approval process

Raised by:	United States
Supported by:	Canada, Argentina, Australia, Philippines
Dates raised:	October 2001 (G/SPS/R/25, paras. 102-105), March 2002 (G/SPS/R/26, paras. 33-35), June 2002 (G/SPS/R/27, paras. 56-57), November 2002 (G/SPS/R/28, paras. 69-72); WT/DS291/24, WT/DS292/18, WT/DS293/18
Relevant document(s):	Raised orally
Solution:	DSB Panel established August 2003, constituted March 2004

120. 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 the 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.

121. 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.

122. In March 2002, the United States reported that no progress had been made on the EC approval system despite statements by various Commission officials. The de facto moratorium had resulted in the loss of over $200 million per year in US agricultural exports. New information given by Commission officials in February 2002 that the approval process would be restarted later in 2002 was welcome. Frustration in US commercial and political circles continued to increase. While the United States welcomed the establishment of the European Food Safety Authority, this did not address the fundamental problem of individual EC member States holding the approval process hostage to political concerns, with disregard for science and sound regulatory decision-making. Canada supported the US comments and noted that the March 1998 EC moratorium represented a de facto ban on a wide range of products. As such it violated not just the SPS Agreement, but also Article XI of the GATT. Argentina echoed the concerns expressed by the United States and Canada.

123. The European Communities noted the absence of procedures at the international level for approval of these types of products. The European Communities was following closely the work of the Codex ad hoc Taskforce on Biotechnology. Considerable efforts had been made to put together a consistent body of legislation to set up an authorization procedure for products resulting from biotechnology, with the aim of giving the producer legal certainty and transparency. The newly established EC Food Safety Authority was responsible for risk assessment and risk communication, but further time was needed to complete work by the European Parliament and the member States.

124. In June 2002, the United States indicated their frustration with the situation and noted that it was considering what steps to pursue. Canada observed that the EC moratorium essentially operated as a ban on imports of certain products for over four years, without any scientific basis. The moratorium resulted in trade disruptions and discrimination based on production methods without regard to the assessment of risks. Canada considered the EC moratorium to be inconsistent with the SPS Agreement and the GATT, and requested the European Communities to put in place a science-based approval process, as well as to consider alternative measures. The European Communities replied that the matter was following political procedures as previously described. At this time, the European Parliament was considering the matter, and the Council of Ministers should examine the documents in the coming months. Internal procedures had to be followed to apply the proposed Directive.

125. In November 2002, the United States stated that the EC moratorium had resulted in approximately 1 billion dollars loss of US exports to the European Communities. Even senior European Commission officials had publicly stated that the moratorium was illegal. The United States indicated that despite the recent adoption of EC Directive 01/18, the moratorium remained in place and trade continued to be blocked. The United States was of the view that the Commission had the authority and the power to act in the face of this illegal moratorium and it had chosen not to do so. The Commission's failure to take action on this issue was a matter of growing concern to the United States. Canada shared the concerns expressed by the United States and regretted the inability of the European authorities to take steps to ensure that EC member States met their SPS obligations. Canada called upon the European Communities to lift the moratorium as soon as possible.

126. Australia supported the views expressed by the United States and Canada about the lack of scientific basis for the EC moratorium. Australia was also concerned about the EC related proposals on genetically modified food and feed, and the traceability and labelling of genetically modified organisms (GMOs). Australia requested further information as to whether the European Communities had conducted a science-based risk assessment for its traceability regulations or based its measure on an international standard. The European Communities had confirmed in their previous responses that the research undertaken had confirmed that those GM foods and GM plants and derived products so far developed and marketed following usual risk assessment procedures had not shown any new risk to human health or the environment, beyond the usual uncertainties of conventional plant breeding, or risks that were likely to put in danger the chosen level of health or environmental protection in the

European Communities. Given this explanation, Australia requested further clarification as to how, in the absence of an identifiable risk to human health, the proposed traceability system met SPS requirements.

127. The Philippines shared the concerns expressed by the United States and reiterated his country's position regarding traceability of GMOs. The Philippines noted that the European Communities had failed to demonstrate any scientific evidence that GMOs were not as safe as their conventional counterparts, and that there were not less trade restrictive measures available to manage the risk.

128. The European Communities noted that the Commission and the EC member States remained determined to put in place a regulatory framework to allow GMO and GM products to be marketed freely within the European Communities and noted that the progress had been made in that respect. The European Communities requested patience and understanding on this very sensitive dossier which was being dealt with at the highest level within the European Communities.

HUNGARY

CONCERNS RELATED TO MEASURES MAINTAINED BY HUNGARY

Animal Health and Zoonoses

Concerns related to TSEs

26. Hungary - Restrictions on bovine products

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

129. 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.

130. In September 2004, Canada reported that the issue of Hungary's restrictions on bovine products had been resolved.

27. Hungary - Restrictions on pork products

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

131. 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.

132. In September 2004, Canada reported that the issue of Hungary's restrictions on pork products had been resolved.

ICELAND

CONCERNS RELATED TO MEASURES MAINTAINED BY ICELAND

Food Safety

28. Iceland - Notification on meat and meat products

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

133. 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.

134. In March 2004, Argentina reported that the issue of Iceland's notification on meat and meat products had been resolved.

INDIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Food Safety

29. India – Ban on food grade wax

Raised by:	United States
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 38-39)
Relevant document(s):	
Solution:	Not reported

135. The United States stated that on 13 August 2003, India's Ministry of Health and Family Welfare published gazette notification GSR 656 amending the 1955 Prevention of Food Adulteration Act by prohibiting the sale of fresh fruits and vegetables coated with waxes, mineral oils and colours. This amendment threatened US horticultural exports to India and was not notified to the WTO. The new requirements exceeded those of the Codex and were adopted without scientific justification. Furthermore, the long shipping journey to India's ports meant that the export of US fruits and vegetables without waxing was not a viable alternative. Waxing was an essential treatment required to maintain shelf life. India was requested to notify this measure to the WTO so that Members could have the opportunity to comment on the regulations.

136. India replied that the measure in question had earlier been published in draft form in the Ministry of Health notification GSR 852 on 30 December 2002, inviting comments from all interested parties. The current measure was in force due to increasing incidents of the use of unsafe wax and adulteration of food with harmful chemicals. This was also a problem with domestic food traders and vendors. This issue of wax coating of fruits and vegetables was being examined by an expert group under the auspices of the Ministry of Health.

Animal Health and Zoonoses

Other Animal Health Concerns

30. India - Restrictions due to avian influenza

Raised by:	European Communities
Supported by:	United States
Dates raised:	March 2004 (G/SPS/R/33, paras. 18-20), June 2004 (G/SPS/R/34, paras. 42-43), October 2004 (G/SPS/R/35, paras. 59-60)
Relevant document(s):	G/SPS/N/IND/13/Add.1, G/SPS/N/IND/14
Solution:	Not reported

137. The European Communities raised concerns on measures applied by India on 3 March 2004 on imports of live birds, fresh poultry meat and meat products due to avian influenza. These measures were not notified as required by the SPS Agreement. In addition, India's restrictions were disproportionate to the health risks associated with imports from the European Communities since the European Communities were free of the highly pathogenic avian influenza. India was requested to lift the restrictions on EC products. The United States shared the concerns of the European Communities.

138. India explained that restrictions on poultry imports were temporary measures to address the emerging threat of introduction of highly pathogenic avian influenza. The measures were intended to protect farmers for whom poultry production was an essential source of income. Delays in the reporting of outbreaks increased the risk of the virus spreading into other countries. In addition, infected poultry did not always exhibit clinical signs of the disease. Once introduced into the country, the disease would be impossible to control. India was taking all measures necessary to gather information on efforts to contain the disease globally and welcomed information from exporting Members who were free of the disease.

139. In June 2004, the European Communities stated that India continued to apply import bans on a range of poultry products from several countries allegedly in response to highly pathenogenic avian influenza. India was requested to review the current ban and lift all restrictions on poultry products from the European Communities. India responded that the measures prohibiting poultry and poultry products had been implemented as temporary measures. New outbreaks of highly pathenogenic avian influenza in WTO Members, but not within the territories of the European Communities, had been reported as recently as 4 June 2004. Since poultry production in India was typically a family-run business, Indian authorities were particularly concerned about potential human development of the disease.

140. In October 2004, the European Communities stated that India had issued two notifications, on 7 July and on 6 August, informing Members of the relaxation of the ban for a range of products. However, the ban was disproportionate to the risk, had no scientific basis and should be confined to regions affected by the disease following OIE guidelines and recommendations. India was requested to review its ban and bring its measures into conformity with the SPS Agreement. India stated that the ban was a temporary measure which was enforced due to the outbreak of avian influenza throughout the world. The situation had been under constant review since the imposition of the ban in February 2004. The ban on imports of poultry with vaccination and specific pathogen free eggs was lifted in July 2004. A subsequent review by an expert group resulted in the continuation of the ban on imports of certain products such as live and raw poultry and pig meat. Processed products from HPAI infected countries were allowed into India, however, and the situation continued to be monitored.

Plant Health

31. India – Phytosanitary import restrictions

Raised by:	United States, European Communities
Supported by:	European Communities, Canada, Chile, New Zealand
Dates raised:	March 2004 (G/SPS/R/33, paras. 23-31), June 2004 (G/SPS/R/34, paras. 22-24), October 2004 (G/SPS/R/35, paras. 45-46)
Relevant document(s):	G/SPS/N/IND/12 and Add.1
Solution:	Amendments to Plant Quarantine Order 2003 regarding solid wood packaging

141. The United States expressed concerns over India's new fumigation requirements which entered into force on 1 January and 6 February 2004. These regulations were not notified to the WTO until 4 March 2004 as G/SPS/N/IND/12 and Members did not have an opportunity to provide comments. With respect to almonds, phoshpine had been an effective treatment to control pests of concern to India prior to the imposition of the new regulations. This treatment was supported by scientific literature that had been presented to India for examination. India was requested to revise its measures accordingly. With regards to solid wood packing, India's measures deviated substantially from international standard ISPM 15, particularly in relation to requirements for physotsanitary documentation and the lack of scientific justification for treatment requirements. Under the new

regulation, both the consignment and packing material were to be treated and by implication, untreated consignments, or those without phytosanitary certification would not be allowed to enter India. Furthermore, India's requirement that packing material be treated with methyl bromide for 32 hours exceeded ISPM 15 requirement of 16 hours. India was requested to provide scientific justification for this divergence or revise its measures accordingly.

142. The European Communities rejected India's claim that these measures conformed to international standards and therefore did not have to be notified. The lapse of two months in notifying the WTO after implementation of the measures denied countries the opportunity to comment on them. The European Communities requested India to defer the implementation of the new measures until the normal 60-day comment period expired. Canada shared the concern about the lack of adequate comment period and stated that Canada became aware of the new requirements when its pulse exports to India were rejected. India had temporarily agreed to accept Canadian pulse shipments without fumigation until 30 April 2004. However, India's refusal to consider alternatives to fumigation treatment was unacceptable, given that Canada's climate made fumigation unnecessary. Furthermore, Canada had been free of the relevant pests for 20 years and had been shipping products to India for several years without problems. Canada urged India to use the least trade-restrictive measures as stipulated in the SPS Agreement. Chile and New Zealand shared the concerns expressed by the previous countries above, particularly those related to certification requirements and the lack of adequate comment period.

143. India explained that the Plant Quarantine Order was intended to simplify India's existing plant quarantine regime, which previously had multiple instruments, including the Destructive Insect and Pest Act of 1914 and Order 1989 regulating imports of cotton, plants, fruits and seeds into India. The new Order repealed and replaced these instruments and filled a gap in the old plant quarantine orders, particularly related to emerging global agricultural trade issues such as GMOs, germplasm, transgenic plant material, live insects, fungi and bio-control agents. The Plant Quarantine Order of 18 November 2003, came into force on 1 January 2004 and the application of some provisions deferred to 1 April 2004. The regulations were made available on the website immediately after its publication and a number of India's trading partners had sought clarification bilaterally. The Plant Quarantine Order was amended on 6 February 2004 to increase clarity and take account of Member's concerns.

144. With respect to the US concerns, phosphine fumigation was useful for quality control but was not an effective treatment against quarantine pests in almonds. Nevertheless, India agreed to examine the research papers presented by the United States and requested that Members send their comments on the issue. On the issue of solid wood packing, India required treatment of the whole consignment if it contained agricultural produce but would accept treatment according to ISPM 15 otherwise. Phytosanitary certificates were required if the exporting country had not followed ISPM 15 treatment requirements. With regards to Canada's concerns, the new Order contained a temporary provision for the relaxation of specific conditions if problems arose in the clearance of consignments. Canadian pulse consignments imported between 31 December 2003 and 30 April 2004 would be cleared and this decision was also extended to all trading partners. While the new regulations were based on scientific principles, India agreed to consider alternative measures proposed by Canada if they could be proven to be effective. India had notified the WTO of these measures on 4 March 2004 and the final date for comment was 30 April 2004.

145. In June 2004, the European Communities raised concerns about India's import restrictions related to plant quarantine. While India had amended the wood packaging part of these measures and brought them into line with international standards, concerns remained about a range of other existing measures that had negative trade impacts. India had not produced scientific information to justify these measures. The European Communities understood that according to India's regulatory approach in this area many types of products were banned before PRAs were conducted to determine if a ban was justified. Since no international standards existed for many of the banned products, India should

conduct a PRA prior to implementing a measure as required by the SPS Agreement. Canada, New Zealand and the United States echoed the EC concerns. Both Canada and New Zealand stressed that Members had not had an opportunity to comment on these measures, and indicated that their authorities were engaged in bilateral discussions with India to seek a resolution to this issue.

146. India stated that it had delayed implementation of these measures until the comments on G/SPS/N/IND/12 could be considered. The Ministry of Agriculture had also discussed the phytosanitary concerns of other Members on a bilateral basis, and in some cases had provided short-term solutions to the issues. For example, India had accepted all import consignments of plant and plant materials until 30 June 2004 to provide ample adjustment period to exporting Members. Some of the provisions of the Plant Quarantine Order 2003 had already been amended, including those on treatment of solid wood packaging materials, and these amendments had been notified to the Secretariat.

147. In October 2004, the United States recalled that India's requirements for methyl bromide fumigation for numerous products from the United States was raised in the last Committee meeting. The fumigation requirements were adopted in November 2003, but were notified only in January 2004, two months after the measure had come into force. Bilateral discussions were held with India where it was agreed that US almonds would be allowed under the previous import requirements until June 2005. Phosphine was a proven and effective treatment for quarantine and storage pests associated with almonds. Nonetheless, the United States was conducting further research to develop long-term solutions to address India's concerns. India replied that the United States had provided information and data on the efficacy of phosphine as a fumigant. However, until field data was available, US almonds would be allowed into India subject to fumigation at the port of entry.

Other Concerns

32. India – Non-notification of various SPS measures

Raised by:	United States
Supported by:	Australia, European Communities, New Zealand
Dates raised:	June 2004 (G/SPS/R/34, paras. 52-54), October 2004 (G/SPS/R/35, paras. 80-82)
Relevant document(s):	G/SPS/R/33 (paras. 23-31)
Solution:	Not reported

148. The United States indicated that India's non-notification, or late notification, of SPS measures had created unnecessary trade disruptions and an uncertain environment for trade. India was requested to comply with obligations under the SPS Agreement by notifying all its SPS measures to the WTO and providing a reasonable period of time for Members to review and comment on the notifications. Australia, the European Communities and New Zealand shared the concerns raised by the United States. India stated that it attached great importance to the issue of transparency. With respect to India's Plant Quarantine Order 2003, statements had already been provided to the European Communities and the issue had been discussed at the March Committee meeting. India had notified the measure on 4 March 2004 with a 60-day comment period and had ensured that trade was not restricted because of the lack of timeliness of the notification.

149. In October 2004, the United States expressed continued concern over India's non-notification of measures which created uncertainty among US exporters. India was requested to notify its SPS measures and to allow a reasonable period of time for comment. The European Communities shared the concerns of the United States and at the same time urged all Members to notify their SPS

measures. A bilateral meeting had been held with India and the European Communities were optimistic of improvements in India's transparency obligations. India stated that it would ensure that it complied with its obligations.

INDONESIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDONESIA

Animal Health and Zoonoses

Concerns related to FMD

33. Indonesia – Import restrictions on dairy products

Raised by:	Argentina
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras. 17-18), November 2002 (G/SPS/R/28, paras. 54-55), April 2003 (G/SPS/R/29, paras. 72-73), June 2003 (G/SPS/R/30, paras. 43),), March 2004 (G/SPS/R/33, paras. 50-51)
Relevant document(s):	Raised orally, G/SPS/GEN/324
Solution:	Resolved

150. Argentina stated that as a result of the outbreak of FMD in 2001, Indonesia had banned imports of milk products, inconsistent with the SPS Agreement and OIE guidelines. The OIE Code stipulated that milk products be accepted if the sanitary authority of the exporting country certified that the necessary requirements had been introduced. Indonesian had not provided the opportunity for the Argentine National Agriculture and Food Quality and Health Service (SENASA) to certify the requirements set forth by the OIE. Indonesia indicated that import restrictions imposed on Argentina due to FMD only applied to fresh milk. Other dairy products, including skimmed milk, cream, butter, cheese and yoghurt, were not restricted. Restrictions on fresh milk were based on the fact that Argentina was not listed by the OIE as a country with zones free of FMD.

151. In November 2002, Argentina indicated that some practical difficulties still impeded Argentine dairy products, other than liquid milk, from entering Indonesia. Indonesia reported that as Argentina fulfilled the first provisions a questionnaire which would provided to them, Indonesia would send an inspection team to Argentina. Indonesia hoped that this would lead to a resolution of the problem.

152. In April 2003, Argentina reported that it had completed the questionnaire and extended an invitation to Indonesia but Indonesia had not yet sent an inspection team. Restrictions on imports of Argentine milk remained and Argentina requested clarification from Indonesia. Indonesia recalled that a questionnaire had been sent to Argentina on 27 January 2003. Out of five plants in Argentina, only one had the necessary controls. If Argentina could provide information on its control programmes, an investigating officer would be sent to conduct an on-site review of the plants in Argentina. Indonesia was confident that further bilateral efforts would resolve this issue.

153. In June 2003, Argentina reported that good progress had been made toward the resolution of the problem. Indonesia confirmed that the bilateral consultations had led to an agreement to send Indonesian inspectors to Argentina.

154. In March 2004, Argentina informed Members that Indonesian officials had conducted a risk analysis on Argentine dairy products and concluded that Argentina's exports did not pose a FMD threat. Restrictions on Argentina were lifted and this issue was considered resolved. Indonesia reported that an inspection team from Indonesia had visited Argentina on 12-20 January 2004 and Argentina's monitoring system with respect to FMD was found to be satisfactory. Two of the five plants inspected met Indonesia's requirements and were eligible to export milk powder to Indonesia as long as they continued to meet the OIE recommendations and guidelines.

34. Indonesia - FMD restrictions

Raised by:	Argentina
Supported by:	Brazil
Dates raised:	October 2001 (G/SPS/R/25, paras. 92-93) (see also #85), October 2003 (G/SPS/R/31, paras. 35-36), June 2004 (G/SPS/R/34, paras. 34-35), October 2004 (G/SPS/R/35, paras. 53-55
Relevant document(s):	G/SPS/GEN/240
Solution:	Not reported

155. 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.

156. In October 2003, Argentina recalled that Indonesian restrictions went beyond the OIE recommendations (G/SPS/GEN/240) and included products not affected by FMD, i.e., cereals. Argentina requested Indonesia to provide scientific evidence to justify the measures or else lift the measures. Argentina had provided documentation in an informal bilateral meeting with Indonesia and proposed a visit of experts to resolve the issue. Indonesia stated that FMD was a serious risk as Indonesia was free of the disease. The ban was periodically evaluated and could be temporary. A visit by experts from Indonesia was being considered. Progress on this issue was being made in consultations with Argentina and the Committee would be informed.

157. In June 2004, Argentina stated that Argentine bovine meat continued to be prohibited despite having made several requests to Indonesia's veterinary service. Indonesia required that bovine products come from areas free from FMD for the past twelve months, and where vaccination had not been carried out in the previous three consecutive years. These measures went beyond official OIE recommendations. Indonesia had not provided any scientific evidence to support these restrictive measures. Indonesia noted that the matter had been discussed in bilateral meetings with Argentina. The importation of ruminants and ruminant products from countries with endemic status or FMD-free with vaccination was prohibited pending further decisions by the Indonesian expert commissions of veterinary public health and animal health.

158. In October 2004, Argentina reported that Indonesia continued to prohibit imports of Argentine beef. Indonesia was requested to comply with OIE recommendations or submit a risk analysis to justify its measures. Brazil shared Argentina's concerns. Indonesia had prohibited imports of soybean and soybean products from FMD-free areas with vaccination in Brazil. Indonesia's

measures were inconsistent with OIE guidelines and recommendations and Article 6 of the SPS Agreement.

159. Indonesia explained that any country wishing to export to Indonesia must be free of FMD and rudderpost as stipulated in the Indonesian Ministry of Agriculture Decree 1992. Countries meeting these requirements were allowed to export to Indonesia. With respect to Argentina, imports were allowed when Argentina was declared FMD-free in 2000. However, imports were suspended when there was an outbreak of the disease. Argentina and Brazil had not been declared FMD-free without vaccination by the OIE. The same conditions also applied to soybean and soybean products and imports would be allowed into Indonesia once the outbreaks were brought under control.

JAPAN

CONCERNS RELATED TO MEASURES MAINTAINED BY JAPAN

Food Safety

35. Japan - Regulation on food additives

Raised by:	European Communities
Supported by:	United States
Dates raised:	November 2002 (G/SPS/R/28, paras. 35-37)
Relevant document(s):	Raised orally
Solution:	Not reported

160. The European Communities indicated that a list of substances, including food additives, aromas, food ingredients and extract solvents, were not formally authorized by Japanese law, which could constitute barriers to food product exports to Japan. Some of the additives had already been authorized by Japan for other purposes. The European Communities requested Japan to approve those substances that had been evaluated by the European Communities on scientific grounds, and noted that all of the substances had been evaluated at the international level by the scientific committee of the Codex Alimentarius Commission. The European Communities reported that a number of bilateral meetings had already taken place. The United States shared the concerns expressed by the European Communities and urged Japan to consider expedited approval for these food additives that were commonly used and considered safe.

161. Japan stated that it had recently enacted a new policy for evaluating the safety and the necessity of the use of food additives and for authorizing their use. Japanese authorities were putting together a list of food additives that were considered safe and necessary to use for certain foods. The use of food additives varied from country to country depending upon customs and habits, and a number of food additives authorized by the European Communities were not authorized in Japan and vice versa. Japan suggested further bilateral consultations on this issue.

162. In January 2005, Japan reported that food additives, including flavouring agents were permitted to be used only when designated by the Minister of Health, Labour and Welfare under the Food Sanitation Law as substances that were unlikely to cause a health hazard. With regards to the use of unauthorized food additives, an application must be filed with the Minister.

163. Furthermore, since 2002, Japan had given priority to certain food additives for authorization, including those proposed by the European Communities and that were also proven safe by the FAO/WHO Joint Expert Committee on Food Additives. The Minister had taken the necessary

procedures to hear the opinions of the Food Safety Commission (FSC) on 29 additives, including 9 flavouring agents, for which full documentation had been prepared. Of the 29 substances, 4 additives (including 3 flavouring agents) were designated as authorized food additives in December 2004. This information was provided to the European Communities at the Japan-EU Regulatory Reform Dialogue and at other opportunities. In order to expedite and facilitate Japanese evaluations of the substances, the European Communities were requested to provide the documentation and literature supporting EC scientific evaluation of the substances.

36. Japan - Amendment of the food sanitation law

Raised by:	China
Supported by:	Korea
Dates raised:	November 2002 (G/SPS/R/28, paras. 40-42)
Relevant document(s):	G/SPS/N/JPN/84, G/SPS/N/JPN/86
Solution:	Not reported

164. China raised concerns over Japan's amendment of the food sanitation law and the procedures followed. Japan's emergency notification (G/SPS/N/JPN/84), issued on 18 July 2002, indicated that the amendment prohibiting the sale, manufacturing and import of specific food, food additives, apparatus and container/packages when considerable amounts of foods were assumed not to be in conformity with the provisions of the Food Sanitation Law would enter into force on 7 September 2002. A related emergency notification had been made on 7 September 2002 (G/SPS/N/JPN/86). China questioned the appropriateness of the use of emergency notifications, as Members could not comment before the measure had been enforced. China requested Japan to provide the scientific evidence, including a risk analysis, that supported the measures taken. Korea indicated that it had requested information on Japan's amendment on 3 September 2002, and were awaiting a response.

165. Japan indicated that they had already received comprehensive comments from China on the amendment of the food sanitation law within the framework of the Trade Policy Review of Japan. The use of the emergency notifications were in accordance with the recommended procedures for transparency, however, Japan was prepared to consider the matter further on a bilateral basis.

166. In February 2005, Japan reported that it had responded to China's comments on notification G/SPS/N/JPN/86 in November 2002 and had not since received any objections from China.

37. Japan – Notification G/SPS/N/JPN/104 on the revision of standards and specifications for foods and additives

Raised by:	China
Supported by:	
Dates raised:	October 2003 (G/SPS/R/31, paras. 45-46)
Relevant document(s):	G/SPS/N/JPN/104
Solution:	Not reported

167. China expressed concerns over Japan's maximum residue levels (MRLs) for several pesticide residues, in particular MRLs for chlorpyrifos. The limits for chlorpyrifos in spinach and other products were not science-based.

168. Japan noted that answers to questions raised by China had been provided through the Japanese Embassy in China. With regards to the MRL for spinach, this product was not included in

the notification. The MRL for the 15 pesticides were based on toxicological risk assessments including residue data and were no more stringent than Codex standards.

169. In February 2005, Japan reported that it had not received any objections from China since providing responses to China's concerns in October 2003 and participating in the Japan-China bilateral consultations in December 2004.

38. Japan – Notification G/SPS/N/JPN/121 on standards and specifications for food additives

Raised by:	China
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 70-71)
Relevant document(s):	G/SPS/N/JPN/121
Solution:	Not reported

170. China raised concerns over Japan's notification G/SPS/N/JPN/121 on proposed MRLs for the fungicide boscalid. The products affected by the proposed MRL included products of animal origin although the use of boscalid was applicable to only a few products such as soybean and fruits. Furthermore, MRLs for boscalid varied for different products, e.g., the MRL for strawberries was 15 ppm while the MRL for other products was 3.5 ppm. Japan was requested to explain these differences in MRLs and to provide scientific evidence to justify the establishment of MRLs for boscalid.

171. Japan stated that its measures were based, in part, on the standards adopted by the US Environment Protection Agency (EPA) for boscalid, including the products that were affected by the MRL. As boscalid was a newly registered agricultural chemical in Japan, MRLs needed to be established to ensure food safety. Domestic data was also taken into account in establishing the MRL and this explained why there were some differences in the MRLs between Japan and the United States.

Plant Health

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

Raised by:	United States and New Zealand
Supported by:	Australia, European Communities
Dates raised:	June 2002 (G/SPS/R/27, paras. 27-30), November 2002 (G/SPS/R/28, paras. 59-62), April 2003 (G/SPS/R/29, paras. 55-57), June 2003 (G/SPS/R/30, paras. 61-63), October 2003 (G/SPS/R/31, paras.19-20), March 2004 (G/SPS/R/33, paras. 59-62), June 2004 (G/SPS/R/34, paras. 18-21), October 2004 (G/SPS/R/35, paras. 42-44)
Relevant document(s):	G/SPS/GEN/357
Solution:	Not reported

172. The United States indicated that Japan continued to impose costly and unjustified quarantine actions when pests were detected on imported US fruits and vegetables, even though the same species were commonly found in Japan. In many instances these actions included treatment that damaged and destroyed the commodity in question. Japanese practices lacked a scientific basis and were inconsistent with IPPC standards on official control and risk assessment for quarantine pests. The result was an arbitrary and unpredictable system facing US horticultural exports to Japan. The United States supported Japan's efforts to bring its plant laws into line with international standards and hoped

that bilateral technical discussions would result in the termination of unjustified requirements. The European Communities supported the US statement. New Zealand noted concerns with Japan's continuing practice of fumigating consignments of New Zealand's fresh products, due to the interception of pests that did not meet the definition of quarantine pests under the IPPC.

173. Japan recalled that during bilateral consultations with the United States in November 2001, the United States had requested Japan to abolish fumigation upon detection of California red scale and Fuller rose weevil in US produce, on the grounds that these were non-quarantine pests endemic in Japan. However, California red scale was under domestic control in Japan as a target pest of forecasting programmes and was therefore subject to fumigation if detected at import inspection. Fuller rose weevil had limited detection with only three points within Japan and was under government-oriented control aimed at eradication. It was not possible under these conditions to exclude those species from quarantine pests. Japan noted that they remained open to further consultations.

174. In November 2002, New Zealand expressed concern with Japan's official control restrictions, detailed in G/SPS/GEN/357. New Zealand requested Japan to confirm that it would not take any action, such as fumigation, on any pest found on imported produce if that pest was already present in Japan but not under official control as defined by the IPPC The United States recalled its concerns over the basis and application of Japan's phytosanitary legislation, in particular with respect to horticultural products that continued to face unjustified quarantine actions at Japan's ports of entry. Even when Japan required no domestic quarantine treatment for the same species of pests, the treatment imposed on imported produce included fumigation which in many cases ruined the products. The United States considered Japan's actions to be highly disruptive of trade. Australia and the European Communities expressed their concern regarding Japan's official control restrictions and supported the statements made by New Zealand and the United States.

175. Japan recognized that the IPPC standards should be one of the basis in a possible future quarantine system for Japan. Japan was examining whether its appropriate level of protection could be maintained by applying plant quarantine measures in line with the new IPPC definition, taking into account Japan's climate and the large volume of imports into Japan. A number of pests were presently under study and although a final conclusion had not yet been reached, discussions were underway to identify practical measures to reduce the effects of Japan's official control measures on international trade.

176. In April 2003, New Zealand stressed that Japan's policy was not consistent with the relevant international definition in ISPM-5 of the IPPC and Supplement No.1. Bilateral discussions between New Zealand and Japan continued and New Zealand requested a policy statement from Japan by 1 January 2003. To date, no such statement had been forthcoming. Japan had still not brought its phytosanitary measures in line with IPPC definitions and guidelines. The United States stated that it shared the concerns and frustrations of New Zealand and continued to experience trade disruptions due to Japan's phytosanitary legislation and unjustified quarantine actions. The United States had requested information on which pests were considered quarantine risks but did not receive a reply. Australia and the European Communities shared the concerns of New Zealand and the United States.

177. Japan stated that it was under no obligation to make a policy statement regarding non-quarantine pests, however, in the interest of transparency, Japan would provide a statement. Japan respected international rules, including IPPC guidelines, and took appropriate measures where necessary on the basis of its national plant protection laws. Further examination was necessary to see if Japan's current measures were consistent with international standards and representatives from outside government would be invited to review the situation.

178. In June 2003, New Zealand indicated that it was pleased to learn that Japan was reviewing its system in order to change it. The United States stated it was disappointed with the discriminatory nature of Japan's measures, its failure to notify internal regulations and the general lack of transparency within its system. Australia expressed support for statements made by New Zealand and the United States. Japan reported that bilateral consultations had been conducted and further examination would be necessary before conclusions could be drawn.

179. In October 2003, New Zealand reported that there had not been any response from Japan since bilateral contacts in April and June 2003. Japan responded that it was seeking to resolve the issue through technical discussions between relevant national experts. A bilateral meeting was to be held in November to discuss orchard controls and pre-clearance inspection systems. Japan reported that in June it had established a consultative group consisting of different stakeholders to examine whether its measures were consistent with international standards. This group had already met three times.

180. In March 2004, New Zealand noted that in November 2003, it presented a submission on its concerns as part of Japan's review of its plant quarantine processes and looked forward to having these concerns addressed in an early and trade facilitating manner. The United States reported that on 8 October 2003, the United States had presented its concerns on the classification of eleven specific species as quarantine pests to the Japanese plant protection division. In contrast to internationally accepted definitions of quarantine pests, Japan's legal definition of pests included pests that were already present in Japan and not subject to official control. As a result, imported products faced discriminatory treatment compared to domestic products since they were subjected to fumigation for pests that already existed in Japan. Japan was requested to provide clarification and information on actions taken to eradicate and contain the eleven specific pests and their distribution in Japan, and on its efforts to align its plant health laws with international standards. The European Communities supported the concerns of New Zealand and the United States.

181. Japan recalled that at the last Committee meeting, Japan and New Zealand had agreed to resolve the issue from a technical perspective and on a case-by-case basis. As a result of bilateral discussions, new quarantine measures were to be introduced in May 2004, based on trials of orchard control for Fuller Rose Weevil on kiwifruit. Furthermore, quarantine trials for reducing fumigation on lettuce from the United States were conducted from July 2003 to March 2004 and the results were under evaluation. Japan had received requests for 39 species of pests from New Zealand and 11 species from the United States to be designated as non-quarantine pests. Members' concerns on the inconsistency of Japan's plant health laws with international standards were under review. The consultative group on plant quarantine established by Japan's plant quarantine authorities had held four meetings but experienced a delay in compiling its recommendations. The consultative group meetings would be reactivated to work on recommendations which would be considered by plant quarantine authorities for further action.

182. In June 2004, New Zealand welcomed the conclusion of Japan's review of its plant quarantine regime and urged that the recommendations of Japan's Plant Quarantine Review Committee, particularly the recommendation that Japan move towards international practice, be adopted promptly. This issue had first been raised in the SPS Committee in March 2002, but bilateral exchanges had been occurring since 1986 between New Zealand and Japan on this issue. With the conclusion of the plant quarantine review, New Zealand expected that Japan would expand its non-quarantine pest list to reflect those pests already in Japan and not under official control. Although the Plant Quarantine Review Committee's report had not yet been considered domestically and implementation timelines had not been published, New Zealand hoped that a mutually acceptable solution could be reached soon.

183. The United States recalled that it had provided an update at the last Committee meeting on Japan's policy for requiring fumigation for non-quarantine pests, even when these pests were commonly found in Japan. Japan's written response to the US request on the eleven pests recognized the necessity of taking into account the relevant standards of the IPPC when conducting pest risk assessments (PRAs), was welcomed. ISPM 2, "Guidelines for Pest Risk Assessment", indicated that the PRA process should end when, in the course of the analysis, a potential quarantine pest had been identified as present and not subject to official controls. The European Communities shared the concerns of New Zealand and the United States.

184. Japan indicated that its authorities were identifying measures which would maintain Japan's appropriate level of protection and be consistent with relevant international standards. The Consultative Group on Plant Quarantine Systems published its report on 21 May 2004, including input from national stakeholders and foreign governments. The Consultative Group recommended that plant quarantine measures should be based on scientific risk assessments, following IPPC guidelines. In the review of existing PRAs, the plant quarantine authorities had focused on high priority pests designated by other Members. As a first step, Japan planned to notify these measures by December 2004.

185. In October 2004, New Zealand asked Japan whether it had adopted the necessary procedures to expand its non-quarantine pest list to include those pests already present in Japan that were not under official control as defined by the IPPC. The United States commented that they looked forward to reviewing the report on Japan's plant quarantine regime at the end of the year. The European Communities expressed support for the statements made by New Zealand and the United States and urged Japan to align its phytosanitary measures with IPPC definitions and guidelines. Japan replied that Members would be notified of the changes in its legislation in December 2004 and amendments would be made no later than March 2005.

40. Japan - Import measures on fire blight

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), March 2002 (G/SPS/R/26, paras. 36-38), June 2002 (G/SPS/R/27, paras. 52-53)
Relevant document(s):	Raised orally; G/SPS/GEN/299, WT/DS245/R, WT/DS245/AB/R
Solution:	Consultations requested on 1 March 2002; panel requested on 22 May 2002; panel established 3 June 2002; panel report issued 15 July 2003, Appellate Body report issued 26 November 2003, adopted 10 December 2003. Article 21.5 panel and Article 22.6 arbitration established on 30 July 2004

186. 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.

187. 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.

188. In March 2002, the United States recalled that Japan's quarantine restrictions prohibited apple imports from orchards in which any fire blight had been detected and required: three annual inspections of US orchards for the presence of fire blight, disqualification from export if fire blight were detected in a 500-meter buffer zone around the orchard, and post-harvest treatment with chlorine. The United States considered that these restrictions were not consistent with Japan's obligations under Article 11 of the GATT, or under the SPS Agreement. The United States had requested consultations under Articles 1 and 4 of the Dispute Settlement Understanding on 1 March 2002. New Zealand and the European Communities also expressed the view that Japan's restrictions on apples were more trade restrictive than necessary and stated their interest in a resolution of this issue.

189. Japan explained that the risk from the entry of fire blight was very serious. The United States had not provided Japan with sufficient scientific evidence to amend its phytosanitary measures. At a bilateral expert meeting in October 2001, Japan had identified the data that was needed and Japan hoped that the technical data would be provided by the United States so as to allow a resolution of this issue.

190. In June 2002, the United States reported that his country had requested the establishment of a dispute resolution panel with respect to Japan's measures related to fire blight. New Zealand indicated that Japan's measures lacked scientific justification and limited NZ exports of horticultural products. New Zealand and the European Communities indicated that their countries shared the US concerns and would participate in the dispute resolution procedure as third parties. Japan indicated that during the bilateral consultations held following the US request, Japan had indicated its willingness to consider relevant data submitted by the United States, however nothing had been provided. Fire blight was a serious plant quarantine disease which did not occur in Japan and which could severely damage the production of apples, pears and other fruits. Japan's measures were indispensable in order to prevent the entry of fire blight, and were fully justified on the basis of scientific evidence.

41. Japan – Restrictions on imports of mangoes

Raised by:	Brazil
Supported by:	India
Dates raised:	June 2003 (G/SPS/R/30, paras. 34-35), October 2003 (G/SPS/R/31, paras. 25-26), March 2004 (G/SPS/R/33, paras. 65-67), June 2004 (G/SPS/R/34, paras. 25-26)
Relevant document(s):	Raised orally
Solution:	Not reported

191. Brazil indicated that it had been seeking approval to export mangoes to Japan for 18 years. Japan demanded steam treatment in spite of the satisfactory level of the measures taken by Brazil, Chile and other potential exporters to avoid fruit fly. Japan had continuously demanded more information and had not taken previous scientific studies into account. Although Japan had offered

technical assistance, this had not facilitated the process. Brazil considered that Japan's measures were inconsistent with the provisions of the SPS Agreement on equivalence, regionalization and technical cooperation.

192. Japan stated that Brazil had requested technical assistance in 1986 but had stopped the technical assistance in 1990 because it wished to develop its own technique based on hot-water treatment. This design was launched in 1998. Both countries agreed on this and the final data was submitted in 2001. Supplementary information was needed, however, before Japan could approve the measures and conclude the necessary technical studies.

193. In October 2003, Brazil stressed that Japan's restrictions on imports of mangoes were unjustified as mangoes were produced in an area 2000 km away from the area where the fruit fly was found. Brazil was waiting for the completion of the public consultation process in Japan and requested Japan to act swiftly to allow the importation of mangoes. Japan reported its authorities had recently received data from Brazil on the trapping of fruit flies and was in the process of reviewing the information. Brazil had submitted technical information in October 2001 and the technical studies by Japan were progressing well.

194. In March 2004, Brazil stated that the Japanese authorities had reacted favourably to technical data provided by Brazil the previous year. The evaluation process had entered a new phase and Brazil hoped to come to a satisfactory solution including the signing of a protocol on packaging, storage and transportation of mangoes to Japan. India noted that, while India was a fruit fly free area its request for market access for mangoes into Japan had been under review for ten years. India had submitted data to Japan and hoped for a favourable response. Japan stated that technical evaluation of data submitted by Brazil was in the final stages. With respect to India’s concerns, Japan had not received technical data from India but looked forward to receiving such data.

195. In June 2004, Brazil reported that after the last meeting, Brazilian and Japanese phytosanitary authorities had held two technical meetings in Japan to discuss a phytosanitary protocol that would allow Brazilian mango exports to Japan. In the last meeting, the Japanese authorities had confirmed that negotiations on the protocol had been concluded, and certification of consignments remained the only outstanding issue. The Japanese authorities had indicated that this issue could be resolved in parallel with the public consultation phase and Brazil encouraged Japan to initiate the public consultation soon. Japan confirmed that the technical evaluation on the Mediterranean fruit fly had been completed and a bilateral meeting had been held to coordinate plant quarantine measures for market access and requirements for hot water dipping. The new protocol was expected to be implemented based on the outcomes of these bilateral discussions.

REPUBLIC OF KOREA

CONCERNS RELATED TO MEASURES MAINTAINED BY THE REPUBLIC OF KOREA

Food Safety

42. Korea – Guidelines for maximum residue level (MRL) testing

Raised by:	United States
Supported by:	Australia, European Communities, New Zealand, Canada
Dates raised:	October 2003 (G/SPS/R/31, paras. 11-14), March 2004 (G/SPS/R/33, paras. 40-42), June 2004 (G/SPS/R/34, paras. 46-48), October 2004 (G/SPS/R/35, paras. 47-50)
Relevant document(s):	G/SPS/N/KOR/123, G/SPS/N/KOR/154 and 155
Solution:	Not reported

196. The United States expressed concern that Korea's changed import regulation was onerous and not supported by science. Under the new import inspection programme imported grains, fruits and vegetables would be subjected to annual MRL tests for the presence of 196 agricultural chemicals. Importers would have to bear the US$1,800 cost of such tests, whereas domestic producers were exempt from the mandatory testing requirements. Domestic producers were subject to random test for which the Korean Government bore the costs. Australia, the European Communities and New Zealand also requested Korea to amend the measure which they described was contrary to Annex C of the SPS Agreement.

197. Korea responded that it had amended the regulations to meet its appropriate level of protection and noted that there were no comments on the issue when the SPS notification was circulated at the beginning of the year. Technical developments had reduced the cost of testing and as such Korea planned to considerably reduce the testing fees. The United States replied that it had submitted comments on Korea's notification in March and had two meetings in September with Korean officials regarding this issue.

198. In March 2004, the United States stated that they were informed during bilateral meetings held with Korea that test fees would be reduced. However, the Korean authorities had not finalized this decision nor addressed the issue satisfactorily. Australia, New Zealand, Canada and the European Communities stated that Korea's testing regime would impose substantial costs on imports and discriminated between imported products and similar products produced in Korea. Korea replied that the relevant administrative procedures to reduce the testing fees were underway and would be completed in two to three weeks, but not later than the end of April.

199. In June 2004, the United States commented that under Korea's import inspection programme, importers would bear the cost of the testing fees, now estimated at US$1-2,000 each. While the United States recognized Korea's attempts to modify their requirements through the issuance of notifications G/SPS/N/KOR/154 and 155 in 2004, the proposed fee for testing would still be twice as large as that proposed by Korea's Food and Drug Administration. Although the number of chemicals subject to mandatory testing had been reduced from 196 to 47, domestic producers were still exempt from the mandatory testing requirement. Thus, Korea's import inspection program was inconsistent with national treatment provisions of the WTO. Despite bilateral discussions over the past year, the United States perceived insufficient progress on this issue and hoped for more significant progress in the future. Australia, Canada and the European Communities expressed similar concerns. Korea emphasized that both the testing fees and the number of agricultural chemicals for which mandatory

testing was required had been substantially reduced. In order to provide testing exemptions based upon compliance history, the relevant regulations would need to be revised.

200. In October 2004, the United States stated many of its concerns still remained. For example, Korea had proposed in G/SPS/N/KOR/154 that imported foods with clean records would be exempted from the mandatory laboratory inspections. However, the proposed exemptions had not been put into effect in the final revised regulations. Furthermore, although Korea had reduced the number of chemicals subject to mandatory laboratory inspection from 196 to 47, testing fees of approximately US$500 per test were still applied. Domestic producers were still only subject to random testing and the costs were borne by the Korean government. The US concerns were directly related to distinctions in fees between imported goods and like-products produced in Korea in accordance with Annex C of the SPS Agreement. The European Communities shared the concerns of the United States as the European Communities had also been affected by Korea's testing requirements. Korea's measures as notified in G/SPS/N/KOR/123 were still being implemented and the amendments as notified in G/SPS/N/KOR/154 and 155 did not have a proposed implementation date. Korea's current testing requirements were disproportionate to the risks and were discriminatory against imported products. Korea was requested to remove these restrictive measures and to align them to international standards.

201. Korea stated that it would take some time to revise the relevant legislation needed to implement the measures notified in G/SPS/N/KOR/154 and 155. The testing fee had been substantially reduced and was now one-third the cost of the previous fee. However, the fee was still two times higher than what was proposed in October 2003 because the domestic industry was concerned that the proposed testing fee was not sufficient to compensate for testing requirements needed to ensure the safety of foods. Testing fees would be adjusted in the future when the need arose. Korea applied strict guidelines to domestic products with respect to the use of agro-chemicals and did not discriminate between imported and domestically produced products. Korea took note of the concerns of the United States, particularly with reference to Annex C of the SPS Agreement.

Plant Health

43. Korea – *Septoria* controls on horticultural products

Raised by:	United States
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 40-41)
Relevant document(s):	
Solution:	Not reported

202. The United States stated that since April 2004, Korea had banned imports of citrus from California due to concerns of the fungi *septoria citri*. The United States was working closely with Korean plant health officials to address this concern although no cases of the fungi had been detected in any US shipment of citrus. The United States had proposed several measures to address Korean's plant health protection concerns and technical discussions would be held on 4 November 2004. The United States hoped that discussions on the protocol would be finalized and trade resumed quickly as the harvesting season would shortly begin.

203. Korea stated that *septoria citri* was one of the most serious quarantine pests in Korea. The US proposed protocol did not fully address Korea's concerns. A ban was imposed on fruits originating from two specific areas in the United States where the fungi was repeatedly detected.

MEXICO

CONCERNS RELATED TO MEASURES MAINTAINED BY MEXICO

Plant Health

44. Mexico - Restrictions on the importation of dry beans

Raised by:	United States
Supported by:	Canada, Nicaragua
Dates raised:	April 2003 (G/SPS/R/29, paras. 28-30), March 2004 (G/SPS/R/33, para.71)
Relevant document(s):	G/SPS/GEN/379, G/SPS/N/MEX/68, WT/DS284
Solution:	Resolved with Nicaragua

204. The United States reported that Mexico had unjustifiably implemented a temporary suspension on the importation of dried beans from the United States on 21 January 2003. Canada and Nicaragua stated that they shared the concerns of the United States. Canada noted that no provision had been made in the Mexican measure for shipments en route. Nicaragua indicated that access of its black beans to the Mexican market had been blocked for what it considered arbitrary reasons.

205. Mexico replied that high level discussions had taken place between the Mexican authorities and the United States and Canada. Mexico would communicate in the next few days what steps it would take to resolve this issue. Mexico would reply at a latter date to comments raised by Nicaragua.

206. In March 2004, Mexico informed the Committee that the issue of restrictions on the importation of dry beans had been resolved with Nicaragua. Nicaragua stated that on 8 March 2004, the Dispute Settlement Body was notified of Nicaragua's withdrawal of consultations with Mexico on this issue.

PANAMA

CONCERNS RELATED TO MEASURES MAINTAINED BY PANAMA

Animal Health and Zoonoses

Concerns related to FMD

45. Panama – FMD restrictions

Raised by:	Argentina
Supported by:	
Dates raised:	March 2004 (G/SPS/R/33, paras. 16-17), October 2004 (G/SPS/R/35, paras. 56-57)
Relevant document(s):	
Solution:	Not reported

207. Argentina raised concerns on two measures adopted by Panama to prohibit the imports of certain products due to FMD. On 19 March 2001, Panama issued a resolution to restrict the imports of animals and by-products from Europe and South America with the exception of Chile. On 1 August 2001, Panama amended its penal code through Law 44. Neither measure complied with OIE

recommendations. However, during bilateral consultations held on 16 March 2004, Panama had proposed amending Law 44 to eliminate these restrictions. Panama confirmed the positive outcome of the bilateral meeting and indicated discussions with Argentina would continue.

208. In October 2004, Argentina informed the Committee that Argentina had received positive news on the issue of Panama's restrictions on dairy products and was hopeful of a resolution by the next Committee meeting. Panama stated that bilateral consultations were held with Argentina prior to the Committee meeting and was optimistic of resolving the issue.

POLAND

CONCERNS RELATED TO MEASURES MAINTAINED BY POLAND

Food Safety

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

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

209. 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.

210. In June 2004, the European Communities reported that this issue had been resolved with the accession of Poland into the European Union.

SLOVAK REPUBLIC

CONCERNS RELATED TO MEASURES MAINTAINED BY THE SLOVAK REPUBLIC

Plant Health

47. Slovak Republic – Import restrictions on potatoes

Raised by:	European Communities, Poland
Supported by:	Argentina, Chile, Hungary
Dates raised:	March 1998 (G/SPS/R/10, paras. 22-23), March 1999 (G/SPS/R/14, para. 21), July 1999 (G/SPS/R/15, para. 65), November 1999 (G/SPS/R/17, para. 84)
Relevant document(s):	G/SPS/N/SVK/9, G/SPS/N/SVK/15, G/SPS/GEN/65, G/SPS/GEN/115, G/SPS/GEN/159 and G/SPS/GEN/165
Solution:	Resolved with the accession of the Slovak Republic to the European Union

211. 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.

212. 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.

213. In June 2004, the European Communities reported that this issue had been resolved by the accession of the Slovak Republic to the European Union.

SWITZERLAND

CONCERNS RELATED TO MEASURES MAINTAINED BY SWITZERLAND

Food Safety

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

Raised by:	United States
Supported by:	Australia, Brazil, Canada, Chile, Hungary, India, Israel, New Zealand
Dates raised:	September 1998 (G/SPS/R/12, paras. 39-41), November 1998 (G/SPS/R/13, paras. 29-30), July 2001 (G/SPS/R/22, para. 127), October 2004 (G/SPS/R/35, para. 90)
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:	Resolved

214. 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.

215. 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.

216. 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.

217. In October 2004, Switzerland reported that this issue had been resolved. Substantial changes had been made to the regulation to take into account comments received during the public consultation process. These changes were notified to the TBT Committee in 1999 and were no longer considered SPS issues. The United States concurred that the issue was resolved.

Plant Health

49. Switzerland - Notification on wheat, rye and triticale

Raised by:	Argentina
Supported by:	
Dates raised:	July 1997 (G/SPS/R/8, para. 32), October 2004 (G/SPS/R/35, para. 91)
Relevant document(s):	G/SPS/N/CHE/5
Solution:	Resolved

218. 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.

219. In October 2004, Switzerland stated that this issue was resolved as Argentina was free from *triticale indica* and therefore the measure did not apply to them. Argentina concurred that the issue was resolved.

SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU (CHINESE TAIPEI)

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINESE TAIPEI

Animal Health and Zoonoses

Other Animal Health Concerns

50. Chinese Taipei – Requirements for heat treatment for meat and bone meal in poultry

Raised by:	United States
Supported by:	
Dates raised:	October 2003 (G/SPS/R/31, paras. 17-18)
Relevant document(s):	
Solution:	Resolved

220. The United States indicated that the heat treatment requirements of Chinese Taipei for dried pet food produced in areas affected by Exotic Newcastle Disease exceeded the relevant OIE guidelines and were not supported by scientific evidence. Chinese Taipei required that poultry ingredients containing bone meal or poultry meat from affected areas be processed so that the interior of the bone was heated to 60 degrees Celsius for 30 minutes, in contrast with OIE guidelines. Chinese Taipei's heat treatment requirements also applied to poultry originating in disease-free areas.

221. Chinese Taipei stated that the regulation for pet food was under review and amendments had been proposed.

222. In January 2005, Chinese Taipei reported that the Quarantine Requirements for the Importation of Dog and Cat Food were amended on 1 April 2004. The United States confirmed that this matter was resolved. The requirements for heat treatment for meat and bone meal in poultry were deleted.

Plant Health

51. Chinese Taipei - Policies regarding quarantine and non-quarantine pests

Raised by:	United States
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras 33-34)
Relevant document(s):	Raised orally
Solution:	Not reported

223. The United States expressed concern that Chinese Taipei's Plant Production and Quarantine Act did not distinguish between quarantine and non-quarantine pests which was detrimental to US exports. Chinese Taipei had agreed to amend this act, however this was expected to take some time. In response, Chinese Taipei indicated that problems arose due to inconsistency between the Chinese and English version of the Act. His authorities had agreed to amend the Act to bring it into conformity with the standards of the IPPC.

224. In January 2005, Chinese Taipei reported that the Enforcement Rules on Plant Protection and Quarantine Act were revised in October 2003. The phytosanitary measures applied only to regulated pests.

52. Chinese Taipei – Import restrictions on potatoes

Raised by:	New Zealand
Supported by:	
Dates raised:	October 2003 (G/SPS/R/31, paras. 15-16)
Relevant document(s):	Raised orally
Solution:	New regulations entered into force on 10 January, 2005

225. New Zealand reported that it had been experiencing delays with its request for market access for potato exports to Chinese Taipei despite fulfilling all the requirements. New Zealand had also responded to requests by Chinese Taipei for additional information which concerned pests not found in New Zealand and pests not found on the potato commodity exported, but only on the potato plant. In considering New Zealand's request, Chinese Taipei had agreed to use ISPM 10 which provided guidance on the Requirements for the Establishment of Pest Free Places of Production and Pest Free Production Sites.

226. Chinese Taipei recalled that New Zealand had first requested access on 20 September 1995, basing this request on ISPM 4 Requirements for the Establishment of Pest Free Areas. In February 2002, New Zealand withdrew its initial request but asked that its proposal be considered under ISPM 10 Requirements for the Establishment of Pest Free Places of Production and Pest Free Production Sites. In July 2002, a new pest risk assessment was completed. After a visit by officials from Chinese Taipei, New Zealand was asked to provide an updated pest list which was received in April 2003.

227. In January 2005, Chinese Taipei and New Zealand reported that a draft of The Quarantine Requirements for the Importation of Table Potatoes from New Zealand was notified as G/SPS/N/TPKM/43, and entered into force on 10 January 2005.

TURKEY

CONCERNS RELATED TO MEASURES MAINTAINED BY TURKEY

Animal Health and Zoonoses

Concerns related to TSEs

53. Turkey - Ban on pet food imports

Raised by:	Hungary
Supported by:	
Dates raised:	March 2000 (G/SPS/R/26, para. 6), June 2002 (G/SPS/R/27, paras. 129-130), June 2004 (G/SPS/R/34, paras. 57)
Relevant document(s):	G/SPS/GEN/316, WT/DS256/1
Solution:	Resolved

228. The representative of Hungary stated that in March 2001, Turkey had banned the importation of pet food from all European countries as a result of the BSE epidemic. Although Hungary was a BSE-free country, it was included in the ban's coverage due to the Turkish authorities' concern about cross-infection. After the Turkish authorities had provided an explanation in June 2001, Hungarian companies stopped using raw materials derived from ruminants in pet food mix, but the ban on Hungarian exports remained in place. Hungary asked where the Turkish regulation was published and when it had been notified to the WTO. Hungary also as requested an explanation of the underlying scientific justification for the ban and asked whether Turkish suppliers were treated identically to foreign suppliers. The United States and European Communities associated themselves with the comments made by Hungary and requested to be informed of further developments. Turkey explained that the problem may have arisen as a result of some missing laboratory analysis, as no import ban was in place. Once that information had been provided, the importation procedures would be complete.

229. In June 2002, Hungary indicated that Turkey had not provided an official response to the questions submitted to it. Hungary had requested consultations under the DSU on 5 May 2002. Although some progress had been made at the consultations, the problem was still pending. Hungary hoped to find an amicable solution by the 5 July 2002 DSU deadline. Turkey indicated that since the issue was now a formal dispute, confidentiality requirements had to be respected. Turkey would inform the Committee of further developments at a later stage.

230. In June 2004, Turkey reported that the ban on imports on pet foods from Hungry had been lifted and the issue considered resolved.

Plant Health

54. Turkey - Restrictions on banana imports

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), June 2004 (G/SPS/R/34, para. 57)
Relevant document(s):	G/SPS/GEN/249, G/SPS/GEN/275, G/SPS/GEN/276
Solution:	Resolved

231. 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.

232. 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.

233. In June 2004, Turkey reported that the issue of restrictions on banana imports from Ecuador had been resolved.

UNITED STATES

CONCERNS RELATED TO MEASURES MAINTAINED BY THE UNITED STATES

Food Safety

55. United States – Delisting of France from countries authorized to export certain meat and meat products to the United States

Raised by:	European Communities
Supported by:	
Dates raised:	March 2004 (G/SPS/R/33, paras. 148-149), June 2004 (G/SPS/R34, paras. 44-45), October (G/SPS/R/35, paras. 88-89)
Relevant document(s):	
Solution:	Resolved

234. The European Communities stated that on 24 February 2004, the United States suspended France's eligibility to export meat and meat products to the United States. The hasty nature of the decision meant that France did not have the opportunity to respond to questions raised during an earlier inspection. Furthermore, this decision was more trade-restrictive than required to protect the safety of consumers. The United Stated explained that this action was based on process control and sanitation deficiencies identified over a multi-period in establishments certified by France as meeting US sanitary requirements. Based on information from French authorities that corrective action had been taken to address concerns raised in previous inspections, US officials scheduled the audit of

January-February 2004, and clarified in advance the risk of suspension for non-performance. The second audit identified the same deficiencies. French authorities had agreed to submit a new corrective action plan to the USDA. The training of French inspection personnel in the implementation of pathogen reduction and hazard analysis and critical control point (HACCP) systems was key to addressing the deficiencies identified in this audit.

235. In June 2004, the European Communities reported the lack of progress made on this issue. French veterinary services and eleven establishments authorized to export meat products to the United States were audited by the USDA early in 2004. Although six of these establishments had not had any major infractions, the US suspension in February 2004 applied to all eleven establishments. The French authorities had forwarded a detailed plan of action to the US. The offer by the United States to train French veterinary inspectors was appreciated, however, some of the restrictions were disproportionate and discriminatory. The United States was requested to lift the prohibition on the six establishments with no infractions.

236. The United States responded that United States and French inspection officials had discussed the audit findings and follow-up actions, and France acknowledged the deficiencies and agreed to submit a new action plan to the USDA. The USDA would complete its review shortly and communicate findings to the French authorities. The USDA had identified experts in the European Union and could provide training of French inspection personnel in the implementation of HACCP system. A technical seminar would be held in September 2004 for senior foreign meat inspection officials on the verification and enforcement of pathogen reduction HACCP requirements in meat export establishments. France had indicated that it would send two senior officials to this seminar. The United States emphasized its commitment to work with France to reinstate their eligibility to export meat and meat exports to the United States.

237. In October 2004, the European Communities reported that the USDA had carried out inspections in France and concluded that the French regulatory system met US requirements and was eligible to export meat-based products to the United States. The United States reported that a follow-up audit of the headquarters of the French Inspection Service, three local offices and four establishments was conducted in September and October. The audit concluded that French establishments met the US requirements and the suspension on French meat-based products was lifted on 15 October 2004.

Animal Health and Zoonoses

Concerns related to TSEs

56. United States – Notification G/SPS/N/USA/844 on US prohibition on the use of specified risk materials and requirements for disabled cattle

Raised by:	Argentina
Supported by:	
Dates raised:	March 2004 (G/SPS/R/33, paras. 68-69)
Relevant document(s):	G/SPS/N/USA/844
Solution:	Not reported

238. Argentina stated that notification G/SPS/N/USA/844 was published on 23 January 2004 as a standard, non-emergency notification. The final date for comments was on 12 April, 2004 but the proposed date of adoption and entry into force was on 12 January 2004; hence Members did not have adequate opportunity for comment. Argentina was required to comply with the same requirements imposed on countries affected with BSE although Argentina had never had a case of BSE and

complied with the requirements to be considered free of BSE. The United States was requested to clarify this matter.

239. The United States explained that the USDA had instituted a number of interim measures on 12 January 2004 after the announcement of a presumptive case of BSE in Washington State on 23 December 2003. Under the US regulatory system, interim final rules were enforced immediately but there was a concurrent comment period of 90 days. The comment period for G/SPS/N/USA/844 would expire on 12 April 2004. Members that were free of BSE and interested in seeking recognition of alternate control measures equivalent to the US measures as announced in G/SPS/N/USA/844, 845 and 846, were encouraged to submit their comments within the deadline for consideration in the development of a final set of BSE rules.

57. United States – US rule on materials derived from cattle (G/SPS/N/USA/933) and record-keeping requirements (G/SPS/N/USA/934)

Raised by:	Argentina, China
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 72-75)
Relevant document(s):	G/SPS/N/USA/933 and 934
Solution:	Not reported

240. Argentina noted that notification G/SPS/N/USA/933 and 934 were published as regular notifications but were of immediate and compulsory implementation despite giving a timeframe for comments. Furthermore, Argentina was recognized as free of BSE but had to comply with the same requirements imposed on countries affected with BSE. The United States was requested to recognize the different disease status of Members as required in Article 6 of the SPS Agreement. China was concerned that the product description in the notification was too general and the HS tariff codes for the products covered by the two measures should be included. The notifications broadly included all trading partners exporting human food or cosmetics to the United States without taking into account the BSE status of different countries or regions. It was not necessary to restrict products from countries free of BSE nor should manufacturers be required to keep relevant records. These measures impeded international trade and the United States should provide scientific justification for its deviation from international standards and modify its measures accordingly.

241. The United States explained that notification G/SPS/N/USA/933 prohibited the use of materials derived from cattle in human food, including dietary supplements, and in cosmetics. Prohibited cattle materials included specified risk materials such as brain and spinal tissue, small intestine of all cattle, material from nonambulatory disabled cattle, material from cattle not inspected and passed for human consumption and mechanically separated beef. These restrictions were put in place to reduce the risk associated with BSE and the human disease variant Creutzfeldt-Jakob disease. The FDA issued an interim final rule effective immediately with a 90-day comment period ending on 12 October 2004 and would consider modifications on the final rule based on comments received. The requirements on prohibited cattle materials were imposed without exceptions to any products or ingredients of products manufactured in or imported into the United States. However, the United States recognized that a country's BSE status might merit consideration as the final rule was being developed. To this effect, the United States was seeking comments on the issue of equivalence as it related to BSE risk management requirements, as well as on standards to apply when determining another country's BSE status, providing an exemption for BSE free countries. The FDA and USDA were working to develop a harmonized US position on exempting other countries from respective requirements related to BSE which might be based, at least in part, on a country's BSE status as determined by the OIE.

242. Notification G/SPS/N/USA/934 was issued at the same time as G/SPS/N/USA/933 and required manufacturers and processors of human food and cosmetics that were manufactured from, processed with or otherwise contained material from cattle to establish and maintain records demonstrating that foods and cosmetics were in compliance with the interim final rule. The comment period of the proposed record-keeping rule ended on 13 August and the comments were currently being reviewed. The United States would notify the Committee of any changes incorporated in the final rule. The United States would include the HS codes as requested by China via a corrigendum to the two notifications.

Plant Health

58. United States – Restrictions on imports of Chinese potted plants in growing medium

Raised by:	China
Supported by:	European Communities
Dates raised:	November 2002 (G/SPS/R/28, paras. 43-45); March 2004 (G/SPS/R/33, paras. 21-22)
Relevant document(s):	G/SPS/N/USA/431 and addendum
Solution:	Not reported

243. China indicated that US prohibitions on the importation of Chinese penjing in growing medium continued almost six years after the risk analysis had been finished and the protocol had been signed. The United States had relied on the excuse of domestic legal procedures and the need to coordinate work between the relevant government agencies to delay solving the problem. China requested the United States to notify its work procedures concerning the removal of measures prohibiting imports of plants and plant products in compliance with the transparency provisions of the SPS Agreement. China failed to understand why the United States had proposed to solve only the problem of the importation of one of the types of penjing plants in growing medium, instead of considering the five types for which the risk analysis had been completed. The European Communities supported the concerns raised by China and noted that they had run into the same difficulties with other varieties of potted plants. The European Communities urged the United States to find a rapid solution to the problem.

244. The United States noted that the issue of penjing in growing medium had been the subject of extensive discussions with China. The United States had been working actively to evaluate China's proposed importation, but the importation of plants in growing medium was more complicated from a risk mitigation perspective than importation of bare root plants. While examination of bare root plants could detect certain pests or disease problems, inspection of potted plants necessarily involved the removal of the plant from the pot and the growing medium, and could damage the plant and reduce its commercial value. Although the assessment of the risk to plant health posed by the importation of the five species of penjing was essentially concluded, other risks needed to be evaluated before determination if the importation presented an acceptable risk. US regulatory requirements for imported plants and growing medium reflected the need to prevent the introduction of pests and disease that could seriously undermine or compromise native ecosystems, as well as cultivated plants, and this work was ongoing. The 1997 protocol between the United States and China reflected agreement on the technical issues relating to production, inspection, and quarantine requirements for Chinese penjing that were necessary but not sufficient conditions for imports to occur. The protocol could not take effect until the risk assessments had been completed, and the necessary regulatory and notification processes had run their course. The United States acknowledged the importance that China attached to this issue, and indicated their commitment to reaching a mutually satisfactory resolution as soon as possible.

245. In March 2004, China stated that the US rule on the importation of artificially dwarfed plants in growing media from China was unnecessary and not viable given China's production system. China's proposed measures were rejected by the United States. The United States reported that the risk analysis for five varieties of penjing was completed. On 16 January 2004, a final rule authorizing the importation of five varieties of Chinese origin penjing plants in approved growing media had been published and notified as G/SPS/N/USA/431/Add1. This rule built upon an existing regulation that was first published in August 2002 and notified as G/SPS/N/USA/431. The 2002 rule remains applicable and required high risk artificially dwarfed plants, including penjing, to be produced in phytosanitary secure conditions for two years prior to export. However, plants less than two years in age were not subject to the two-year quarantine requirement due to a lower risk profile. This new regulation provided China with additional market opportunities and the United States would continue bilateral discussions with China.

59. United States – Imports of citrus fruit

Raised by:	Argentina
Supported by:	
Dates raised:	November 1999 (G/SPS/R/17, para. 89), June 2000 (G/SPS/R/19, para. 10), July 2001 (G/SPS/R/25, paras. 94-96
Relevant document(s):	Raised orally
Solution:	Favourable conclusion reported in June 2000. New concerns raised in October 2001. Issue reported resolved in March 2004.

246. 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.

247. 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.

248. 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.

249. In March 2004, Argentina reported that the issue of US imports of citrus fruits had been resolved.

URUGUAY

CONCERNS RELATED TO MEASURES MAINTAINED BY URUGUAY

Animal Health and Zoonoses

Concerns related to TSEs

60. Uruguay – Risk assessment on BSE

Raised by:	United States, Canada
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 89-92), April 2003 (G/SPS/R/29, para.78, 81)
Relevant document(s):	G/SPS/N/URY/5/Rev.1
Solution:	Resolved with Canada.

250. The United States observed that Uruguay had notified its adoption of the EC BSE geographical base risk approach for classifying countries. The United States recalled its BSE-free status and the Harvard risk assessment on BSE, and asked that Uruguay take these into account. Canada indicated that it was providing information to Uruguay which would confirm Canada's status as free of BSE. The European Communities noted that the EC risk classification on BSE was never intended to serve as the international norm. Members should continue efforts to develop OIE risk classifications in relation to BSE at the international level. The European Communities hoped an agreement would be reached in the OIE by June-July 2003.

251. Uruguay stated that it was highly dependent on animal product exports. If BSE appeared in Uruguay it would not only affect the health and life of people and animals, but would have an economically devastating effect. Uruguay had adopted the emergency measures due to the growing number of countries with BSE over the last year and the increased risk of introducing the disease into the country. According to OIE data, at the end of 2000 there were 12 countries with local outbreaks, while that figure currently stood at 22. Uruguay had adopted the risk assessment criteria established by the European Communities until such time as the OIE produced a list of countries classified in relation to BSE, and would review its legislation when the OIE finished its work in this area.

252. In April 2003, Canada reported that Argentina and Uruguay had agreed to undertake their own BSE risk assessment instead of relying on the EC BSE risk assessment as the basis for their BSE-related measures and classification of countries. Uruguay stated that it was dependent on meat related products for 8 per cent of its GDP. Since 1996, a number of emergency measures had been taken to ensure that BSE did not enter the country. In 2001, a decree was promulgated which would restrict food products on the basis of their BSE categorization. At the present time, this decree was suspended and bilateral discussions were ongoing. Information from both Canada and the United States was being reviewed and final categorization of both country's BSE status should be concluded within a short period of time.

253. In September 2004, Canada reported that the issue of Uruguay's BSE measures had been resolved with Uruguay.

VENEZUELA

CONCERNS RELATED TO MEASURES MAINTAINED VENEZUELA

Animal Health and Zoonoses

Concerns related to FMD

61. Venezuela – FMD Restrictions

Raised by:	Argentina
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, para. 20), June 2002 (G/SPS/R/27, paras. 46- 47)
Relevant document(s):	Raised orally
Solution:	Resolved

254. Argentina requested Venezuela to accept imports of animal-based products that had followed the risk mitigation procedures identified in the OIE Animal Health Code. Venezuela stated that Argentina had not been listed as an FMD-free zone in an OIE Bulletin dated 17 March 2002, and that the Pan-American Health Office had reported on a new FMD outbreak in Argentina in a 6 March 2002 report.

255. In June 2002, Argentina noted that despite bilateral contacts, Venezuela had not provided any further information nor its risk assessment to Argentina. Venezuela indicated that it recognized the region of Argentina south of the 42nd parallel as free from FMD without vaccination, and was prepared to import meat from this region. With respect to the other regions of Argentina, Venezuela followed the OIE recommendations, however it was willing to consult with Argentina on the matter.

256. In March 2004, the Argentina reported that the issue of Venezuela's FMD restrictions had been resolved.

Plant Health

62. Venezuela - Phytosanitary requirements for potatoes, garlic and onions

Raised by:	Argentina
Supported by:	United States, Canada
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), March 2002 (G/SPS/R/26, para. 43), June 2002 (G/SPS/R/27, paras. 54-55), April 2003 (G/SPS/R/29, paras. 53-54), June 2003 (S/SPS/R/30, paras.36-38), October 2003 (G/SPS/R/31, paras. 23-24), March 2004 (G/SPS/R/33, paras. 63-64),
Relevant document(s):	Raised orally
Solution:	Not reported

257. In March 2001, Argentina provided information on Venezuela's import restrictions on Argentine garlic because of *Urocystis 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.

258. 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.

259. In March 2002, Argentina informed that bilateral negotiations with the Venezuelan health authorities had taken place, but in the protocols agreed for importation on potatoes, garlic and onion the matter of certification and inspection visits by Venezuelan officials was left outstanding. In view of the seasonal nature of these commodities, Argentina was concerned that if the inspection visits did not take place soon, no exports would be possible before 2003. In response, Venezuela noted that they were awaiting a proposal from Argentina on a convenient date for the inspection visit.

260. In June 2002, Argentina stated that there had been no progress in resolving the problems arising from Venezuela's restrictions on potatoes, garlic and onions. Argentina was waiting for the onsite visit which Venezuela indicated was necessary before trade could resume. Venezuela stated that some revisions to its requirements had been made, and it was now organizing a technical visit to examine the pest surveillance systems in Argentine producing areas, with the hope of finding a solution to the problem.

261. In April 2003, Argentina informed the Committee that Venezuelan technical experts had visited Argentina to verify its claims of freedom from onion smut (*Urocystis cepulae*). Discussions had entered the final phase and the Argentine authorities awaited the publication of the Venezuelan expert report which should allow the resolution of this issue. Venezuela reported that bilateral consultations with Argentina had taken place prior to the Committee meeting and that the expert report should be available soon.

262. In June 2003, Argentina reported that it still had not received the final report and urged Venezuela to inform Argentina about the results of the visit so that trade could be initiated. Venezuela clarified that imports from Argentina were not prohibited but subject to certain requirements. Furthermore, Venezuela had undertaken a risk assessment which provided the necessary justifications. The results of this assessment would be communicated to the Argentine health services as a part of the mutually agreed work plan.

263. In October 2003, Argentina noted that Venezuelan officials had visited Argentina in December 2002 to confirm the absence of onion smut. Argentina had received a report from Venezuela just the previous week and hoped it meant the issue was resolved. The United States and Canada shared Argentina's concerns over delays or denial of import permits without scientific justifications. Venezuela noted that the report had been sent to Argentina in March and an import protocol could now be completed.

264. In March 2004, Argentina informed the Committee that a technical document had been presented to Venezuela during bilateral discussions held on 16 March 2004. Argentina and Venezuela

agreed to hold further discussions and hoped for a resolution on this issue. Venezuela reported that it had received the documents requested from Argentina and hoped for an early resolution on the issue.

Other Concerns

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

Raised by:	Colombia, Canada
Supported by:	Chile, United States
Dates raised:	March 2002 (G/SPS/R/26, paras. 27-29), June 2004 (G/SPS/R/34, paras. 30-32)
Relevant document(s):	Raised orally
Solution:	Not reported

265. Colombia stated that Venezuela was not granting sanitary certificates for potatoes, fresh mushrooms, fresh tomatoes, fertile eggs, day-old chicks and meat products and requested that Venezuela notify the measure which served as the basis for the discretionary granting or non-issuance of health certificates for Colombian exports, or to lift this measure. Chile, the United States and Canada supported the concerns expressed by Colombia.

266. Venezuela provided details of import levels for potatoes, mushrooms and fresh tomatoes in 2001, which showed that import licenses were being granted. Venezuela had temporarily suspended SPS licensing for fertile eggs and day-old chicks as a result of an outbreak of avian flu in Colombia, a disease alien to Venezuela, from January 2002. On 8 February 2002, the prohibition on fertile eggs was removed. Notification of the lifting of restrictions against day-old chicks was made on 7 March 2002. For meat products, Venezuela noted that her country regularly imported beef on the hoof, slaughtered and processed beef and swine products. In reply to the comments of other Members, she stated that it was important not to confuse problems of administrative capacity and management with discretionary licensing.

267. In June 2004, Canada recalled that it had raised concerns over Venezuela's issuance of SPS-related permits in previous SPS Committee and Agriculture Committee meetings. Venezuela's policies had restricted Canadian exports of meat, seed potatoes, table potatoes and onions. Venezuela had not provided a clear explanation of this policy, however it appeared that the permits in question were SPS-related. Importers would apply to Venezuelan authorities for permits and provide SPS information to support their application, but applications had been denied without an SPS-related justification. Canada requested that Venezuela grant permits on an automatic basis as long as the conditions of the SPS Agreement had been met. Venezuela and Canada had agreed to continue to pursue this issue bilaterally. Chile and the United States requested that Venezuela review its import procedures in order to comply with obligations under the SPS Agreement. The United States noted that for products not subject to tariff rate quotas (TRQs), Venezuela seemed to be using SPS permits in a manner equivalent to import licences.

268. Venezuela stated that Canadian import requests were normally given a positive reply. The comments from Canada, Chile and the United States would be considered carefully. Venezuela would contact the Canadian authorities to clarify the situation concerning import requests of meat.

OTHER CONCERNS

Animal Health and Zoonoses

TSE concerns

64. Certain Members – General import restrictions due to BSE

Raised by:	European Communities
Supported by:	Canada, United States
Dates raised:	June 2004 (G/SPS/R/34, paras. 37-38), October 2004 (G/SPS/R/35, para.85-86)
Relevant document(s):	
Solution:	Several WTO Members reviewed their bans

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

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

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

Concerns related to FMD

65. Certain Members – FMD-related import restrictions

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), June 2002 (G/SPS/R/27, paras. 48-49), November 2002 (G/SPS/R/28, paras. 52-53)
Relevant document(s):	G/SPS/GEN/269
Solution:	New Zealand, Indonesia, Ukraine and Switzerland lifted restrictions against EC member States after they regained FMD-free status. Problems with other Members persisting. Resolved with Argentina.

272. 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.

273. 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.

274. 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.

275. 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.

276. 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.

277. 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.

278. In June 2002, the European Communities reported that most Members had lifted their restrictions related to the FMD outbreak in Europe. The OIE had just revised its list of countries recognized as FMD-free, which included all 15 EC member States. However, some Members continued to apply restrictions or requirements which served as administrative bans on EC products, in particular UK meat and meat products. Argentina noted that they also continued to suffer long-term negative effects from measures kept in place without justification.

279. Japan reported that the Domestic Animal Infectious Disease Control Law had been amended on 14 June, permitting resumption of imports of pork meat and products from France and Ireland. The comment period regarding a proposed lifting of the import ban on Dutch products had just concluded, and the ban could be lifted as early as mid-July.

280. In November 2002 the European Communities noted disappointment that some unnecessary and unreasonable FMD trade barriers continued to affect EC exports, in violation of the SPS Agreement. Mexico imposed a number of BSE-related measures that had a detrimental effect on exports from Austria, although Austria had registered no cases of FMD in the course of the 2001 outbreaks. Bilateral meetings on the matter had been unsuccessful. Mexico indicated that it recognized Austria as being FMD free but were waiting to receive a request from Austria for plant inspections. Argentina supported the comments made by the European Communities with regards to FMD-related measures taken by certain Members.

281. In March 2004, Argentina informed the Secretariat that the issue had been resolved with respect to Argentina's concerns.

Other Animal Health Concerns

66. Certain Members - Regionalization and recognition of animal disease free status

Raised by:	European Communities
Supported by:	
Dates raised:	March 2004 (G/SPS/R/33, para. 52), June 2004 (G/SPS/R/34, paras. 35-36), October 2004 (G/SPS/R/35, para.87)
Relevant document(s):	
Solution:	Several WTO members removed restrictions on some EC member States

282. The European Communities indicated that they recognized regionalization and based their policy on Article 6 of the SPS Agreement, while some Members did not give the same treatment to regionalization. The European Communities had provided evidence to the importing Member on regions free from the disease and access for inspection or any other relevant procedures as in accordance with Article 6. Nevertheless, EC member States continued to experience unjustified export restrictions related to assumed disease presence in those regions. For example, Germany, Belgium and the Netherlands had experienced import restrictions due to highly pathogenic avian influenza although they regained their disease free status in November 2003. France, Italy and Spain experienced unjustified restrictions related to classical swine fever due to the non-application of the principle of regionalization. Furthermore, all EC member States were officially free of FMD but continued to face unjustified import restrictions. The European Communities urged all Members to respect the obligations of the SPS Agreement on regionalization and recognize the disease free status of EC member States and remove unjustified import restrictions

283. In June 2004, the European Communities stated that some WTO Members failed to recognize that all EC member States were officially free of FMD according to the OIE criteria. No new outbreaks of FMD had been recorded in the territory of the European Communities since 2002. The

European Communities considered the epidemic to be under control and the disease completely eradicated. According to the OIE rules, countries could recover free status three months after the last identified case when a stamping out policy and serological surveillance were applied. There was no scientific justification for restrictive measures on EC products due to FMD.

284. The European Communities also highlighted the lack of recognition of regionalization for Classical Swine Fever. The European Communities had continued to recognize area disease-free status in several WTO Members who themselves failed to recognize regionalization in the European Communities. The European Communities regularly provided information to importing countries upon request concerning which EC member States could be considered free of Classical Swine Fever and had also facilitated inspections. However, some WTO Members continued to impose restrictions on imports from Italy and France based on concerns about Classical Swine Fever. The European Communities urged Members to respect Article 6 of the SPS Agreement, particularly related to Italy and France, and offered to provide any relevant information to support the implementation of this request.

285. In October 2004, the European Communities recalled that the European Communities had on previous occasions requested Members to adhere to the principles of regionalization and to recognize the disease-free status of EC member States. Several Members had now removed their restrictions on some EC member States. The European Communities would provide all necessary information to demonstrate its disease-free status to any WTO Member.

PLANT HEALTH

67. Certain Members - Notification by Members of implementation of ISPM 15

Raised by:	European Communities
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 83-84)
Relevant document(s):	
Solution:	Not reported

286. The European Communities stated that a number of Members had informed the Committee of their intentions to put in place wood packing requirements based on ISPM 15. These wood packing requirements would also cover wooden barrels and casks containing distilled spirits or other alcoholic beverages. Although ISPM 15 was not clear on the coverage of products, it provided guidance on products that might be excluded such as manufactured wood. The wooden barrels and casks typically used to contain distilled spirits and wine were subject to heat treatment at 100 degrees centigrade for 40 minutes, exceeding ISPM is guidelines of 56 centigrade for 30 minutes.

287. It was apparent that the drafters of ISPM 15 did not intend to cover wooden barrels used to contain alcoholic beverages such as spirits. Some countries had clearly indicated in their domestic legislation that ISPM 15 did not apply to wooden barrels containing spirits. The European Communities noted that the IPPC was organizing a global training workshop in 2005 to explain the application of ISPM 15 but requested the IPPC to clarify the matter as soon as possible in order to allow trade to continue.

68. Implementation of ISPM 15

Raised by:	Chile, Uruguay,
Supported by:	Argentina, Bolivia, China, Colombia, Mexico, Paraguay
Dates raised:	October 2003 (G/SPS/R/31, paras. 135-137), March 2004 (G/SPS/R/33, para.151)
Relevant document(s):	G/SPS/GEN/435
Solution:	Not reported

288. Chile stated that Members should take into consideration the zone of production of the wood and allow sufficient time for countries to adapt their treatment methods to meet the ISPM 15 standard when adopting the measures. Compliance with the standard required the private sector to make large scale investments, a certification process to register the mark on packaging, establishment of an accreditation system, and the setting up of supervisory and audit systems. Chile's concerns were detailed in document G/SPS/GEN/435.

289. Uruguay stated that it was the implementation of the standard that was the problem. Argentina supported the comments make by Chile and Uruguay. Mexico stated that problems could arise with implementing this standard and that discussions on this issue should continue in the context of the SPS Committee. Paraguay and Colombia supported the comments made by others.

290. Canada commented that the standard was not new as it had been adopted by the IPPC in June 2002. Canada had planned to implement the standard in June 2003 but delayed its implementation until January 2004 to give Members sufficient time to adapt wood treatment processes. Canada would provide a transition period and recommended that the issue be discussed under Agenda Item 7(a) regarding the use of international standards.

291. In March 2004, Uruguay indicated it was providing national level certification of wood packaging which was used as support material for exported products. However, Uruguay needed more time to apply the different phases of the certification procedure. Uruguay emphasized the need to recognize the valid use of alternative sanitation methods (as described in section 3.3 of ISPM 15), particularly in cases in which countries did not have the necessary infrastructure. Argentina, China and Bolivia shared Uruguay's concern about ISPM 15, particularly relating to the explicit implementation timelines.

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