WORLD TRADE ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

Addendum

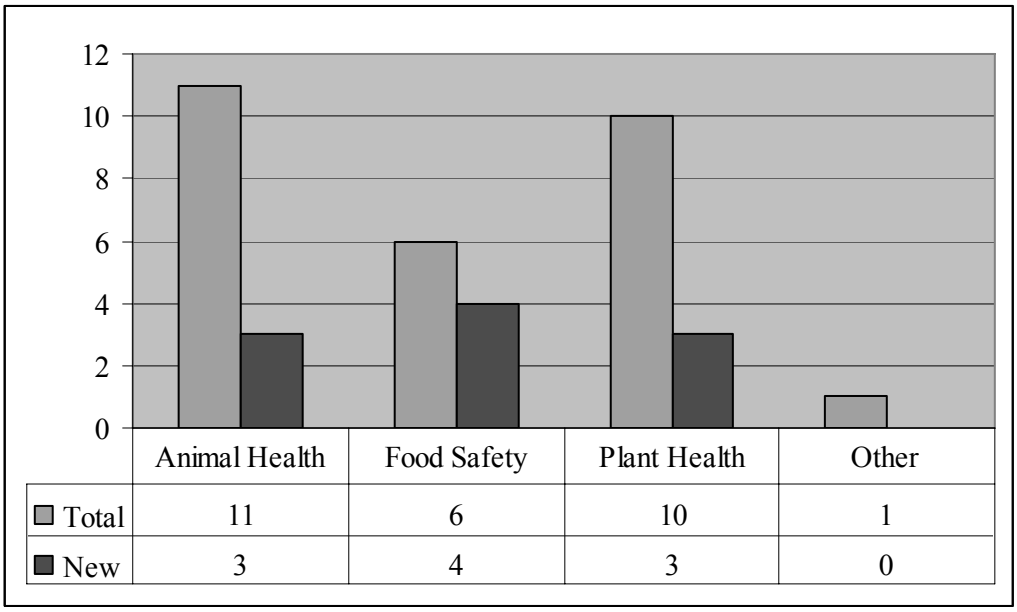
ISSUES CONSIDERED IN 2006

This part of document G/SPS/GEN/204/Rev.6 contains summary information regarding all issues which were raised in the SPS Committee for the first time during 2006, and issues which were previously raised but on which further discussions or activities occurred during 2006. This includes issues for which there was no substantive discussion in the Committee during 2006, 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 2006 (e.g., establishment of a dispute resolution panel on the issue).

A total of 28 specific trade concerns were brought to the attention of the Committee during 2006, of which ten were new issues. Figure 1 shows all trade concerns raised or for which a resolution or other action was reported in 2006 by subject. Overall, six issues (21 per cent) relate to food safety, and ten issues (56 per cent) relate to plant health. The remaining 11 issues (39 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 27 per cent of animal health concerns raised in 2006, while issues related to foot and mouth disease and avian influenza each account for 18 per cent. The remaining 37 per cent concern other animal health issues.

[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 – 2006



	Animal Health	Food Safety	Plant Health	Other
Total	11	6	10	1
New	3	4	3	0

FIGURE 2: TRADE CONCERNS RELATED TO ANIMAL HEALTH & ZOONOSES – 2006

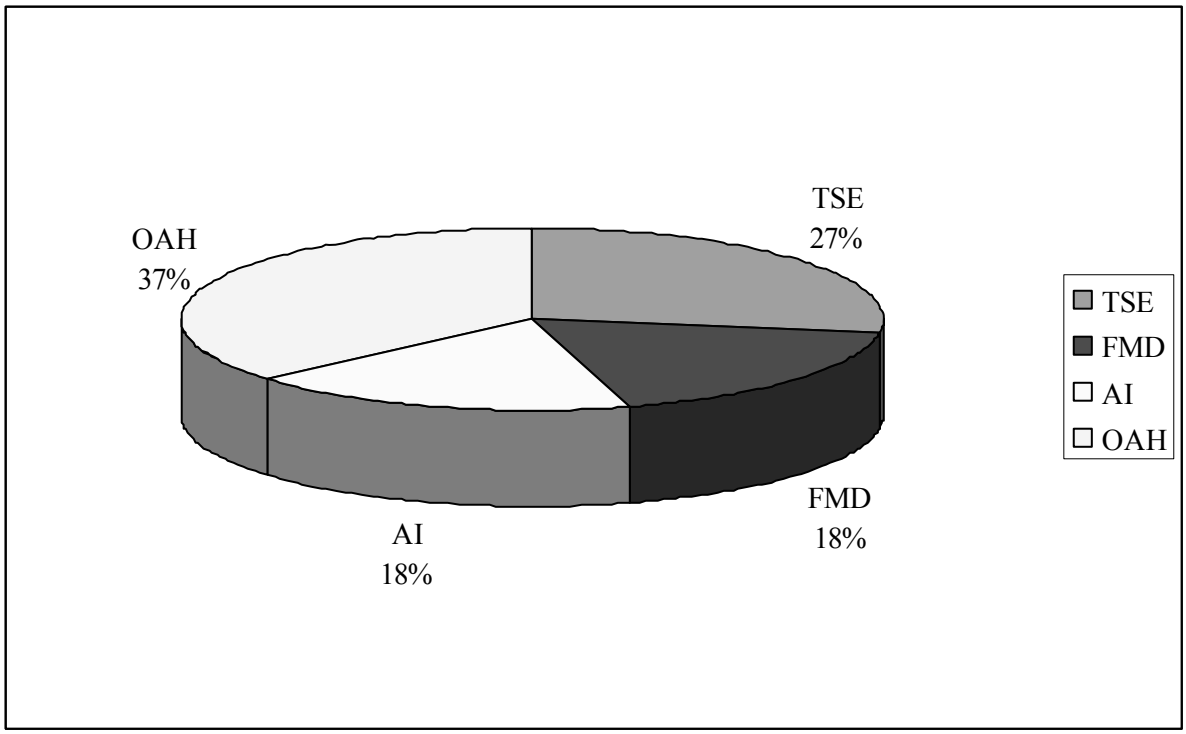
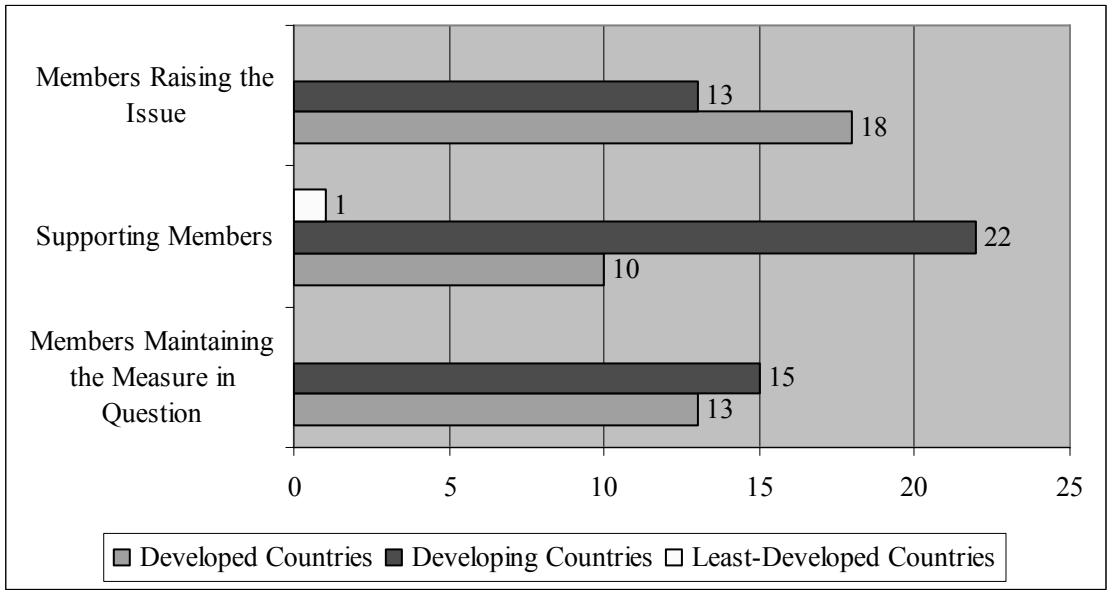


FIGURE 3: PARTICIPATION OF MEMBERS – 2006



Of the 28 trade concerns dealt with in 2006, in 18 cases a developed country has raised the issue, compared to 13 for developing country Members and zero for least-developed countries (on some occasions developing and developed country Members have raised or supported the same issue). Developed country Members have supported another Member raising the issue in ten cases and developing country Members have supported another Member in 22 cases. One least-developed country Member has supported a trade concern. In 15 cases, the measure at issue was maintained by a developing country Member, and in 13 cases it was maintained by a developed country Member. No trade concerns regarding measures maintained by least-developed country Members were raised. Figure 4 shows that six trade concerns were reported solved in 2006. In one case, the Committee was informed that a partial solution had been found and for the remaining 21 cases, no solution had been reported.

FIGURE 4: SOLVED TRADE CONCERNS - 2006

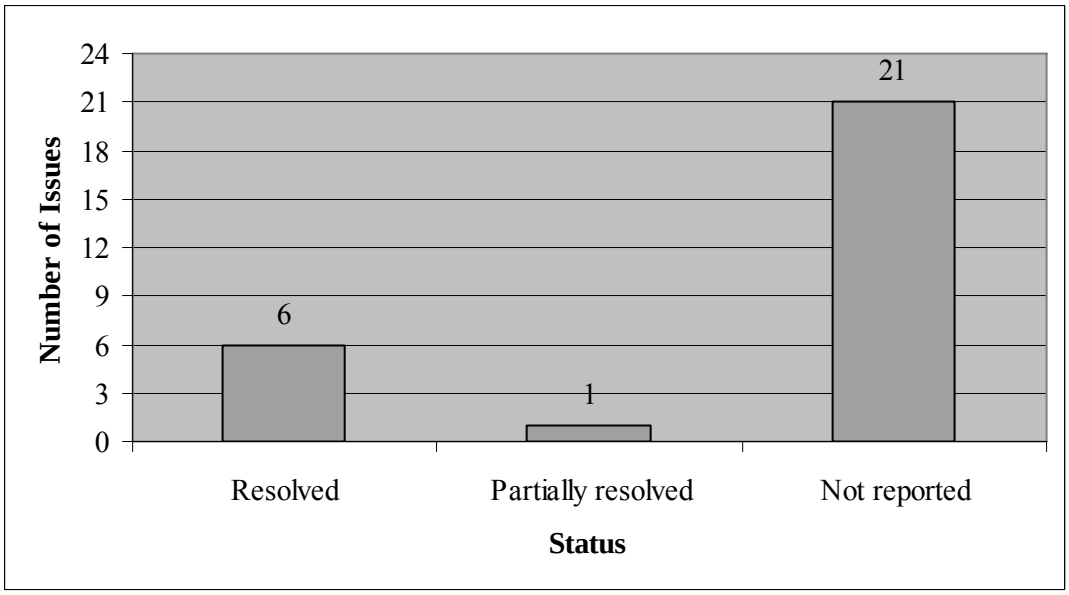


Table 1 – Issues Raised for the First Time in 2006

Item #	Title
236	Argentina – Restrictions on beef exports under the Hilton Quota
237	Brazil – Lack of regionalization for Newcastle disease and restriction on live birds
239	Dominican Republic – Tolerance levels for soil content on potato tubers
238	European Communities – Application and modification of the EC Regulation on novel foods
242	European Communities – Restrictions on US poultry exports
240	India – Biotech labelling and import approval process regulations
243	Indonesia – Lack of recognition of pest-free areas
244	Indonesia – Legislation on importation of live animals and meat products
245	Romania – Restrictions on US pork and poultry exports
241	United States – Import restrictions on wooden Christmas trees

Table 2 – Other Items Considered During 2006

Item #	Title
217	Australia – Import restrictions on apples
194	Australia – Restrictions on table grapes
205	Bolivia – Slaughter of imported breeding cattle
16	Chile – Restrictions on imports of wheat and fruit
115	China – Import restrictions for citrus and other fruits related to fruit fly
219	European Communities – Eurep/Gap requirements for bananas
231	European Communities – Import restrictions on cinnamon
210	Guatemala – Restrictions on imports of chicken meat
62	India – Restrictions on imports of live horses
232	Israel – Import restrictions on EC beef due to BSE
233	Israel – Absence of phytosanitary import legislation
212	Japan – Amendment protocol on MRLs for pesticides, veterinary drugs and feed additives
213	Japan – Restrictions on beef imports
222	Japan – Import suspension of heat-processed straw and forage for feed
164	Mexico – Restrictions on the importation of dry beans
225	Mexico – Restrictions on US poultry
102	United States – Import restrictions on potted plants from the European Communities
235	Certain Members – Import restrictions on EC exports of live birds, meat, meat products and other derivates due to avian influenza

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ARGENTINA

CONCERNS RELATED TO MEASURES MAINTAINED BY ARGENTINA

Animal Health and Zoonoses

Other animal health concerns

236. Argentina – Restrictions on beef exports under the Hilton Quota

Raised by:	European Communities
Supported by:	None
Dates raised:	March 2006 (G/SPS/R/40, para. 34)
Relevant document(s):	Raised orrally
Solution:	Not Reported.

1. In March 2006, the European Communities reported that Argentina had placed restrictions on its own beef exports, reducing in particular the quantity of beef it exported under the so-called Hilton Quota. The European Communities understood that this measure was taken due to concerns about the quantities and prices of beef available on the Argentine domestic market. However, according to the European Communities, this trade disruption could lead to a weakening of the SPS controls necessary to ensure that beef exports met the SPS requirements of the European Communities. The European Communities sought assurances that its sanitary requirements could be met, particularly in terms of traceability, if export quantities were substantially reduced. Argentina indicated that it had taken note of the concern of the European Communities.

AUSTRALIA

CONCERNS RELATED TO MEASURES MAINTAINED BY AUSTRALIA

Plant Health

194. Australia – Restrictions on fresh grapes

Raised by:	Chile
Supported by:	European Communities, New Zealand
Dates raised:	October 2004 (G/SPS/R/35, para. 216), March 2005 (G/SPS/R/36/Rev.1, paras 34-36), June 2005 (G/SPS/R/37/Rev.1, paras 62-64), March 2006 (G/SPS/R/40, para. 51).
Relevant document(s):	G/SPS/N/AUS/ 148/Add.1, G/SPS/N/AUS/153/Add.1, G/SPS/N/AUS/148/Add.2, G/SPS/N/AUS/ 148/Add.3
Solution:	Resolved

2. 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.

3. In March 2005, Chile recalled its concerns regarding the undue delays experienced by Chilean exporters of fresh grapes to Australia which were contrary to the provisions of the SPS Agreement, notably Article 5.4 and Annex C. In 2004, the IRA for Chilean fresh grapes had been revised. In February 2005, the draft text of the new IRA for Chilean fresh grapes had been published and subjected to a 45-day consultation period. Chile underlined its serious concerns that this IRA would not be finalized in time for the October export period for Chilean fresh grapes. The European Communities recalledthat the European Communities was facing similar problems for various food products. He urged Australia to ensure that its sanitary and phytosanitary measures were taken exclusively for sanitary and phytosanitary reasons and without undue delays.

4. Australia clarified that Biosecurity Australia had become a prescribed agency in December 2004 and shortly after had reviewed and reissued several of the draft IRAs. Two of these IRAs had recently been released for public comments(G/SPS/N/AUS/ 148/Add.1 and G/SPS/N/AUS/153/Add.1), while the revised draft IRA on importation of fresh grapes from Chile was currently available for public comments on Biosecurity Australia's website.

5. In June 2005, Chile noted that on 24 June, after a process of consultations and comments, the report had been forwarded to the Eminent Scientists Group. Chile hoped that the final authorization would be granted before the next grape shipping season in mid-October.

6. The European Communities raised concerns regarding the transparency of the Australian quarantine regime for fruits and vegetables, and noted that long delays before the issuance of a risk assessment had prevented EC exporters from accessing the Australian market for years.

7. Australia assured Chile that it was committed to deliver a science-based risk assessment as soon as possible. The final IRA for table grapes from Chile was notified to the SPS Committee in September 2005 (G/SPS/N/AUS/ 148/Add.2). In December 2005, Australia notified to the SPS Committee that imports of Chilean fresh table grapes were now authorized under certain conditions (G/SPS/N/AUS/ 148/Add.3).

8. In March 2006, Chile reported that after discussions with Australian authorities, a joint work plan had been agreed to resolve the issue.

217. Australia – Import restrictions on apples

Raised by:	New Zealand
Supported by:	Chile, European Communities, United States
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 13-15), October 2005/February 2006 (G/SPS/R/39, paras. 64-68), March 2006 (G/SPS/R/40, paras. 38-40), June 2006 (G/SPS/R/42, paras. 32-34), October 2006 (G/SPS/R/43, paras. 30-32)
Relevant document(s):	Raised orally
Solution:	Not reported

9. In June 2005, New Zealand explained that it had been actively pursuing access to the Australian apple market since 1986. Fresh apples were the second most significant horticultural export of New Zealand after kiwifruit. Australia's ban on New Zealand apples was based on the perceived risk of fire blight transmission, although science had clearly demonstrated that the risk of mature symptomless apples in trade being vectors for the transmission of fire blight was negligible. Since 1999, when New Zealand made its fourth application for regaining access to the Australian

apple market, the Australian authorities had only released two draft risk analyses, systematically followed by a round of comments. This undue delay of six years was unacceptable

10. Chile, the European Communities and the United States indicated that they had experienced similar difficulties. The European Communities hoped that since Australia was reviewing the scientific justification of its 2004 risk assessment in light of the Panel findings in the Japan-Apples case, its phytosanitary import policy might improve. The United States recalled that the major plant pest of concern was fire blight. As mentioned earlier, a WTO dispute settlement Panel had recently found that stringent control requirements were not justified on the basis of the available scientific evidence, which clearly demonstrated that mature symptomless apple fruit did not pose a risk of transmitting fire blight. It encouraged Australia to expeditiously modify its existing import prohibitions on apples and other fruits due to fire blight concerns. Chile requested to be kept informed of any progress on this issue.

11. Australia reminded the Committee that recent changes to Australia's biosecurity agency had caused some delays in the time taken to complete a number of risk analyses. Australia was committed to deliver a science-based risk assessment for New Zealand apples as soon as possible.

12. In February 2006, New Zealand informed the Committee that since June 2005, Australia had issued a new revised draft import risk analysis for New Zealand apples. This new revised draft allowed the import of New Zealand apples into Australia under certain conditions. Australia had already proposed a similar conditional access in response to previous requests without justifying the scientific basis of these conditions. Australia required not only that orchards be inspected by their own officials and found free of fire blight, but also that apples be immersed in chlorine prior to export. These measures were unjustified. Australia also prohibited imports of New Zealand apples into Western Australia because of apple scab disease, although another outbreak of apple scab had been reported in Western Australia at the time the revised draft import risk analysis had been released. New Zealand considered that Australia's biosecurity import risk analysis process, based on cycles of drafts and consultations, resulted in undue delays and constituted a disguised restriction on trade. These undue delays created uncertainty about whether and when the Australian Government would complete its import risk analysis.

13. The United States recalled that there was an outstanding US request for access to the Australian market. Given both the strong science and the legal record established by the WTO dispute settlement process with regard to the risk of transmitting fire blight via mature symptomless apples, Australia should remove its unjustified import prohibitions and ensure that its import requirements were based on science and consistent with the SPS Agreement.

14. The European Communities recalled that in June 2005, Australia had suspended its import risk assessment for New Zealand apples pending a review in the light of the Japan-Apples case. Then a new revised draft had been submitted for consideration, leading to more delays. The European Communities had similar experiences with Australia in trying to get access for chicken meat and pig meat.

15. Australia stressed that all the relevant scientific information, including that considered in the Japan-Apples case, had been taken into account in the assessment of the risks from New Zealand apples. The new draft report was available for comments until 30 March 2006. After consideration of comments received, a final review of the draft report would be undertaken by an eminent group of scientists. If this group confirmed that all relevant information has been taken into account in the analysis (including stakeholder comments), the report and its recommendations on import conditions would be transmitted to the Director of Animal and Plant Quarantine for a policy determination. The revised draft report took account of Australia’s level of protection (ALOP). Fire blight was one of a number of pest and diseases of quarantine concern dealt with in the revised draft report. The report

appropriately took into account the variations in the phytosanitary status of different regions within Australia.

16. In June 2006, New Zealand reported that it had commented on a draft risk assessment. Contrary to evidence considered in the *Japan – Apples* case, Australia maintained that mature apples were a vector for fire blight. New Zealand was of the view that volume estimates in the risk assessment should contain only New Zealand exports. Biosecurity Australia had indicated that the process might conclude at the end of 2006. If this problem - which had existed for four years - could not be resolved bilaterally, New Zealand would not rule out other WTO actions.

17. The United States reiterated its request that Australia revise its approach in light of the scientific evidence and of WTO jurisprudence.

18. Australia indicated that 40 submissions commenting on the draft import risk assessment had been received, and that some technical exchange was continuing. The draft import risk assessment took into account Australia's appropriate level of protection; fire blight was only one of the pests of concern. The final report would be reviewed by an eminent scientist group to ensure that stakeholder comments had been properly taken into account.

19. In October 2006, New Zealand recalled that in December 2005, Australia had released a third revised draft Import Risk Analysis (IRA) for New Zealand apples, and New Zealand, in consultation with their pip fruit industry, had provided a comprehensive submission to Biosecurity Australia on this revised draft. New Zealand noted that since June 2006, Biosecurity Australia had completed its consideration for stakeholder comments on the revised draft and a final draft report had been referred to Australia's Eminent Scientific Group (ESG), which had also finished its consideration of the draft final report and made recommendations to Biosecurity Australia. New Zealand had not received these recommendations and urged Australia to make them available in the interest of transparency. While New Zealand was reassured by the progress made in finalizing the issue with Australia, it still had concerns regarding the content and substance of the draft IRA. Australia still maintained that matures apples were a vector for the fire blight disease, irrespective of the science considered in the Japan apples dispute which had demonstrated that the risk was negligible. New Zealand was also concerned about the pests and diseases addressed by Australia in the revised import risk analysis and hoped that the volume of imports assessed in the final IRA would take into account only trade from New Zealand. New Zealand indicated its commitment to resolving the issue bilaterally with Australia, but was prepared to explore other dispute settlement options under the WTO system if the issue was not resolved in the near future.

20. The United States shared the concerns of New Zealand and indicated that the United States had also provided a comprehensive submission to Biosecurity Australia on its revised draft IRA. The United States expected that Australia's final policy determination for New Zealand would be consistent with the wealth of scientific evidence available on the issue and the legal record established by the WTO dispute settlement process.

21. Australia reported that in accordance with Australia's normal procedure, the draft final IRA was sent to the independent Eminent Scientific Group (ESG) on 1 August 2006 for review. That group had 60 days to conduct its review and as indicated by New Zealand, the ESG had completed the review and the report had been transmitted to Australia's Director of Animal and Plant Quarantine. Biosecurity Australia was expected to take into account any recommendations made by the ESG in producing its final IRA report and the report would be published. Australia further noted that the final IRA could be appealed on the basis of any problems with the process but not in terms of the actual science in the report. Once any appeal process had been completed, a final report and recommendations would be provided to the Director of Animal and Plant Quarantine for a final quarantine policy determination. The whole process was expected to be completed by the end of 2006

and Australia indicated that the recommendations made by the ESG would be conveyed in an appropriate fashion as determined by the Director of Animal and Plant Quarantine.

BOLIVIA

CONCERNS RELATED TO MEASURES MAINTAINED BY BOLIVIA

Animal Health and Zoonoses

Concerns related to TSE

205. Bolivia - Slaughter of imported breeding cattle

Raised by:	Mexico
Supported by:	None
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 45-47), June 2006 (G/SPS/R/42, paras. 19-20)
Relevant document(s):	Raised orally
Solution:	Not reported

22. In March 2005, Mexico stated that Bolivia had slaughtered a number of Mexican cows in 2004 on the grounds that Mexico was a high-risk country for BSE. Mexico considered this to be in breach of Articles 2.2, 2.3, 5, 6 and Annex C of the SPS Agreement. BSE was classified as an exotic illness in Mexico, as Mexico was free of the disease. At the end of 1996, the Mexican animal health authorities had implemented an epidemiological surveillance programme for BSE, based on the OIE recommendations.

23. Bolivia clarified that the Mexican cattle had been slaughtered because they had arrived at Bolivia's airport without the relevant animal health permit. Bolivian health authorities had required the re-exportation or the disposal of the cattle, however due to inaction by the Mexican authorities, the cattle had been slaughtered. Mexico concluded that the issue with Bolivia had been resolved.

24. In June 2006, Mexico recalled that a Mexican association, FOGAMEX, had been invited to show some cattle at a fair in Santa Cruz, Bolivia. Although the requirements communicated by Bolivia's animal health authority (SENASAG) had been fulfilled and an import permit had been obtained, when the cattle arrived in Bolivia, SENASAG had seized the animals and ordered that they be returned to Mexico. However, since foot and mouth disease exists in Bolivia while it does not exist in Mexico, it was not possible to return the animals to Mexico. After weeks of negotiations, and after the Bolivian authorities had revoked the import permit although the cattle had already arrived, Bolivia decided to slaughter the cattle. Months later, in the context of a lawsuit filed by FOGAMEX against SENASAG, the Bolivian Supreme Court in Santa Cruz found that SENASAG had withheld the import permits without legal basis and ordered SENASAG to cover the damages. Formal consultations held in La Paz, Bolivia, in 2005 had not led to an agreement. Since then, bilateral efforts had continued to try to obtain an official and public apology from the Bolivian Government and payment for damages caused.

25. Bolivia indicated that, as explained at the previous meeting, in the absence of OIE guidance, the competent Bolivian authorities had followed national and Andean Community sanitary requirements, which required a risk assessment before an import permit was issued. The animal health authorities received insufficient documentation to carry out a risk assessment only two days before the cattle arrived. According to the Andean regulations, the cattle thus had to be slaughtered or

re-exported. After granting a reasonable period to allow the interested parties to organize the re-exportation of the cattle, which had not been possible, the Bolivian authorities had slaughtered the cattle to ensure adequate health protection in Bolivia and in the region. Bilateral efforts were underway to find a mutually satisfactory solution to Mexico's concern about the economic damage suffered by the Mexican exporter.

BRAZIL

CONCERNS RELATED TO MEASURES MAINTAINED BY BRAZIL

Animal Health and Zoonoses

Other animal health concerns

237. Brazil – Lack of regionalization for Newcastle disease and restrictions on live birds

Raised by:	European Communities
Supported by:	
Dates raised:	March 2006 (G/SPS/R/40, paras. 30-33)
Relevant document(s):	Raised orally
Solution:	

26. The European Communities raised concerns regarding import restrictions applied to EC products related to the failure to recognize regionalization and the disease-free status of some EC member States. France had made several official requests for recognition of regionalization for Newcastle disease to the Brazilian authorities during 2005 and 2006, however no recognition of regionalization had been made by the Brazilian competent authorities.

27. The EC member States did not understand why Brazil refused to recognize regionalization for Newcastle disease while the European Communities recognized regionalization of Brazil for Newcastle disease and for other major animal diseases. A situation where a whole country was affected by a ban when only a limited part of its territory was affected by a disease did not fit the concept of regionalization promoted by the SPS Agreement. Trade had to be allowed from other areas or regions within a country where the disease did not exist. The European Communities urged Brazil to respect Article 6 of the SPS Agreement, to follow the international rules set up by the OIE and to respond positively to legitimate requests for the application of the principle of regionalization for EC member States.

28. Brazil reported that due to an outbreak of Newcastle disease in the French department of the Loire Atlantique, reported to the OIE on 27 July 2005, on 5 August 2005 Brazil suspended imports of live birds and avian genetic material, exclusively from that French department. Another case was notified to the OIE on 21 October 2005 in the Port de Calais department, whereupon Brazil extended the import restrictions to the whole of the French territory. A further outbreak of Newcastle disease was subsequently notified in another French department on 18 November 2005. French health authorities denied any epidemiological connection between the outbreaks and reported that the outbreaks had been related to contamination by migrating birds. On 25 February 2006, a case of highly pathogenic (AI) was identified in France, which once again was attributed to contamination by migrating birds.

29. In the light of all the outbreaks attributed to migrating birds, Brazil decided to monitor the situation in France with regard to bird diseases, in order to protect its own population. Brazil wished

to maintain good trade relations with France and the European Communities, and applied fully the provisions of Article 6 on regionalization. However, the outbreaks of Newcastle disease, the available information and the recent occurrence of AI were all relevant. Brazil was the world's largest exporter of chicken, and needed to maintain its status as free of AI.

CHILE

CONCERNS RELATED TO MEASURES MAINTAINED BY CHILE

Plant Health

16. Chile – Restrictions on imports of wheat and fruit

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, paras. 18-19), July 2001 (G/SPS/R/22, para. 127), October 2006 (G/SPS/R/43, para. 36)
Relevant document(s):	G/SPS/GN/14, G/SPS/GEN/265
Solution:	Resolved

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

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

32. In October 2006, the United States and Chile both reported that following bilateral discussions held in August 2006, concerns relating to phytosanitary measures applied to US fruit exports to Chile had been resolved.

CHINA

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINA

Plant Health

115. China – Import restrictions for citrus and other fruits related to fruit fly

Raised by:	Argentina
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, paras. 24-25), June 2002 (G/SPS/R/27, paras. 50-51), March 2006 (GSPS/R/40, para. 50)
Relevant document(s):	Raised orally
Solution:	Resolved

33. Argentina noted that bilateral consultations were on-going with the Chinese authorities to overcome difficulties related to the export of apples, pears and citrus fruit to China due to the latter's fruit-fly restrictions. Various procedures, including the use of cold treatment, were being used to overcome these difficulties. Argentina requested the Chinese authorities to provide a list of outstanding questions related to risk assessment and further information requests.

34. China explained that Medfly and South American fruit fly had not been reported in China and that a risk assessment by Chinese experts had concluded that the risk of introducing these pests from Argentina was high. China was requesting Argentina to provide data on the efficacy of cold treatment against fruit flies and to demonstrate that it could provide an equivalent level of protection in comparison with importing from pest-free areas. China noted that establishing pest-free areas was not practicable for all pests, as recognized by the IPPC standard, and that countries with advanced research on fruit fly control and quarantine did not accept importation from countries where the pest had previously been present, even if they were currently pest-free. China was open to bilateral technical discussions and joint research with Argentina on this issue.

35. In June 2002, Argentina informed the Committee that despite having held bilateral consultations with China, the issue was not resolved. China indicated that it was prepared to consider alternative treatments, but had not yet received any technical data demonstrating that establishing pest free production places and cold treatment could provide equivalent protection to the establishment of pest-free areas.

36. In March 2006, Argentina reported that this specific trade concern had been resolved.

DOMINICAN REPUBLIC

CONCERNS RELATED TO MEASURES MAINTAINED BY THE DOMINICAN REPUBLIC

Plant Health

239. Dominican Republic – Tolerance levels for soil content on potato tubers

Raised by:	Canada
Supported by:	
Dates raised:	June 2006 (G/SPS/R/42, paras. 17-18), October 2006 (G/SPS/R/43, paras. 33-34)
Relevant document(s):	Raised orally
Solution:	Not reported

37. In June 2006, Canada stated that it had been negatively affected by the unacceptably low tolerance levels set by the Dominican Republic for soil content on potato tubers which were ten times lower than those indicated in the international standard. This measure seemed to target Canada as other exporters were not subject to the same requirement, which was impossible to meet and was not based on a risk assessment. Despite numerous efforts at the bilateral level and an invitation extended to the Dominican Republic to visit the potato production sites, the issue remained unresolved. Canada urged the Dominican Republic to amend its tolerance level to bring it in line with international practice.

38. The Dominican Republic explained that the measure was not discriminatory as it applied to all countries exporting to the Dominican Republic, where there was a risk of introduction of nematodes. An official communication had been sent to Canada in this regard and they hoped to resolve the issue promptly.

39. In October 2006, Canada reported that it had held bilateral meetings to discuss Canada's concerns with the Dominican Republic requirements for Canadian potato. In September 2006, the Dominican Republic sent representatives to Canada to get first hand information on Canadian potato production, distribution and transportation systems and to take samples for testing. At the conclusion of the visit, Canada thought they had reached an agreement on the conditions for Canadian potato to be exporter to the Dominican Republic. Canada reiterated that there had been no agreement on acceptable soil tolerance level as a result of miscommunication of the results of the September meeting and indicated their interest to continue the technical discussion on the issue while hoping that the issue could be resolved on the basis of acceptable international practices for soil tolerance.

40. The Dominican Republic observed that following the recommendations of a multidisciplinary team of experts working on potato certification and working on phytosanitary measures, they had agreed on a soil tolerance level of 1g of soil per kg of potato for consumption and 5g of soil per kg of seed potato. Canadian and Dominican Republic experts were right and agreed that over the next 2 years the situation was to be carefully monitor and possibly could agreed to increase to the soil tolerance level to 85g of soil per kg of potato. However, the Dominican Republic agreed with Canada that there had been miscommunication and expressed their desire to continue monitoring the situation while hoping that an understanding could be reached at a bilateral level.

EUROPEAN COMMUNITIES

CONCERNS RELATED TO MEASURES MAINTAINED BY THE EUROPEAN COMMUNITIES

Food Safety

231. European Communities - Restrictions on cinnamon

Raised by:	Sri Lanka
Supported by:	China
Dates raised:	October 2005/February 2006 (G/SPS/R/39, paras. 52-58), October 2006 (G/SPS/R/43, para. 38).
Relevant document(s):	G/SPS/GEN/597
Solution:	Resolved

41. In October 2005 and February 2006, Sri Lanka reported problems with exports of Ceylon cinnamon (*Cinnamomum zeylanicum)* to the European Communities, in particular to Germany, on the grounds that the cinnamon contained sulphur dioxide (SO2) (G/SPS/GEN/597). Directive No. 95/2/EC and its subsequent amendments on the import of foodstuffs listed conditionally permitted preservatives and additives including SO2 and sulphites and maximum tolerated levels in a number of products, but not in cinnamon. The chemical evaluation undertaken by the FAO/WHO Joint Expert Committee on Food Additives (JECFA) in 1998 had shown that the use of SO2 in acceptable quantities as a food additive did not produce any adverse effects on human health. The presence of a certain amount of SO2 as a food additive had also been permitted in Codex and EC standards. SO2 fumigation had been applied by the cinnamon industry in Sri Lanka as an acceptable method to obtain a better colour and to prevent fungus and insects, and as there was no direct application of sulphur to cinnamon, no residual content of SO2was expected to be present in the final product.

42. The current EC restrictions would drastically reduce Sri Lanka's exports to the EC market, and might also have an effect on Sri Lanka's exports to other markets. Sri Lanka questioned the consistency of the EC measure with Article 3.3 of the SPS Agreement. The Codex General Standards for Food Additives indicated that the lack of reference to a particular additive or to the use of an additive in a specific food did not imply that the additive was unsafe or unsuitable for use in food. Sri Lanka queried whether the EC Scientific Committee for Food had undertaken an assessment of the risk posed by Sri Lanka's cinnamon on human health. In addition, Sri Lanka sought clarification regarding what relevant economic factors had led the European Communities to decide that a *de facto* import ban was the appropriate level of protection required in this situation and if the European Communities had taken into account the objective of minimizing negative trade effects when determining the appropriate level of SPS protection. Sri Lanka suggested there was scope for the European Communities to provide longer time-frames for Sri Lanka to comply with EC SPS measures on cinnamon, as provided for in Article 10.2 of the SPS Agreement. Sri Lanka requested the European Communities to suspend its current *de facto* ban while his country pursued the development of a Codex standard on MRLs for cinnamon. Sri Lanka also requested, as a transitional measure, that the European Communities accept Sri Lankan cinnamon with an SO2 content up to 150ppm until the maximum residue limit for SO2 in cinnamon were defined at the international level.

43. China requested that the European Communities provide a risk analysis and safety assessment report and expressed hope the issue could be resolve through bilateral consultations.

44. The European Communities recognized that the EC legislation on food additives and contaminants had no provision for sulphur dioxide in cinnamon, and changing the legislation to allow

SO2 in cinnamon could be a lengthy process. The European Commission had explored the possibility of providing technical assistance to Sri Lanka to assist in the preparation of this dossier. The European Commission had brought EC member States' attention to the need to approve SO2 as an additive in cinnamon and encouraged member States to adapt their import policies pending the modification of the EC legislation.

45. The representative of Codex confirmed that the use of SO_2 as an additive was currently under discussion at step 3 in the framework of the Codex Committee on Food Additives and Contaminants (CCFAC). The pace of finalization of the discussions depended on contributions and views of CCFAC participants. Sulphur dioxide had been evaluated by the JECFA in 1998 and was currently allowed on a few commodities. The CCFAC would meet the last week of April 2006, which provided an occasion for Members to stress the importance and urgency of developing a MRL for SO2 in cinnamon.

46. In October 2006, Sri Lanka reported that through bilateral discussion, concerns regarding the issue of EC restrictions on the importation of cinnamon had been resolved to their mutual satisfaction. In July 2006, an international standard for cinnamon was established and it had also been approved by Civil Society Coalition (CSC) in Geneva. Sri Lanka noted that these issues had been resolved through the cooperation of the European Communities

242. European Communities - Restrictions on US poultry exports

Raised by:	United States
Supported by:	None
Dates raised:	October 2006 (G/SPS/R/43, paras. 28-29).
Relevant document(s):	Raised orally
Solution:	Not reported

47. In October 2006, the United States raised concerns regarding the delay by the European Communities to finalize and implement a draft regulation that approved antimicrobial treatments (AMTs) on poultry subject to certain restrictions. The United States recalled that in August 1997, the European Communities stopped imports of US poultry meat on the basis of the use of AMTs in its production. However, in January 2006 the European Food Safety Authority (EFSA) had concluded that the antimicrobial washes at issue were safe, confirming an April 2003 opinion by the EC scientific committee on veterinary measures related to public health. Despite the decision by the European Communities to propose new legislation that provided the framework to approve these products for use on poultry, the European Communities had yet to approve importation of poultry treated with these products. The United States urged the European Communities to authorize these products so that US poultry exports which met rigorous US safety standards could also meet EC standards.

48. The European Communities appreciated the US concerns regarding the delay but noted that it was important that the genuine and long-standing concerns in the European Communities over the use of AMTs were taken fully into account in the approval process. The circumstances that led to the effective ban on poultry meat from United States in 1997 did not relate exclusively to AMTs. The use of AMTs in food of animal origin was not permitted at present in the European Communities *inter alia* because of concerns that the use of such treatments could disguise other hygiene problems. The European Communities expressed disappointment that while it was possible for US exports to meet EC hygiene requirements without the use of AMTs, the United States was still insisting on the use of these products. The European Communities was in the process of finding a solution and this included a recent decision in principle that AMTs could be used to tackle surface contamination. A draft

regulation had been prepared which allowed for the use of such substances under specific conditions. The European Communities was still identifying the specific conditions to accompany the draft regulation, in order to ensure that AMTs were not used to hide other problems. However, the European Communities expressed hope that bilateral information exchanges with the United States could lead to a mutually agreeable solution.

238. European Communities – Application and modification of the EC Regulation on novel foods

Raised by:	Columbia, Ecuador, Peru
Supported by:	Argentina, Benin, Bolivia, Brazil, Chile, Costa Rica, El Salvador, Honduras, India, Mexico, Paraguay, Philippines, Uruguay, Venezuela
Dates raised:	March 2006 (G/SPS/R/40, paras. 21-29), June 2006 (G/SPS/R/42, paras. 35-37), October 2006 (G/SPS/R/43, paras.131-134)
Relevant document(s):	G/SPS/GEN/681, G/SPS/GEN/699, G/SPS/GEN/700, G/SPS/GEN/713, G/SPS/GEN/714, G/SPS/GEN/733, G/SPS/GEN/735
Solution:	Not reported

49. In March 2006, Colombia raised concerns on the application of the EC Regulation on novel foods (Regulation No 258/97) and with the draft project of the European Commission to amend the regulation, foreseen to enter into force in 2007. The amendment could directly affect the trade potential of traditional and exotic foods. Some traditional and exotic products already had substantial presence in the US and Japanese food markets, and European consumers were now becoming interested in these food products. It was important to recall, however, that these traditional foods had been consumed in South America for thousands of years. This was in contrast to genetically modified products which could be considered as real novel foods. Columbia reported that the increased trade in traditional and exotic products also had important socio-economic impacts, as the export of these products represented a measure to decrease extreme rural poverty in South America and had potential to address specific social and environmental issues, such as providing alternatives to both the growing of narcotic crops and to the illegal felling of protected forests.

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

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

- The non-application of Regulation 258 to exotic, traditional products with a history of safe consumption in their region of origin;
- Greater transparency and clarity in the procedures and definition, giving credit to a safe consumption history of food in the country of origin;
- Requirements, tests, and procedures in proportion with the nature of the foods concerned and the risks they could imply for consumers; and
- All exotic traditional products to remain in the public domain and no private entity to be granted privileged access to the European market.

52. Ecuador reported that the amendment would also affect the trade potential of traditional and exotic food from his country. In light of Ecuador's great biodiversity, over the last decade international organizations like UNCTAD had been promoting the development of new export products ("Bio-Comercio"). In Ecuador also the export of traditional and exotic foods had major socio-economic impacts and related closely to efforts to overcome rural poverty. Ecuador invited the European Communities to consider carefully Colombia's recommendations regarding the amendment. The amendment of the regulation and its impacts were of importance for many developing countries.

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

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

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

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

57. Bolivia, Brazil, Colombia, Ecuador, India, Paraguay and the Philippines shared the concerns raised by Peru. Ecuador indicated that a study on the impact of the novel food regulation was about to be finalized. Preliminary results of this study showed that this regulation could have negative economic and social consequences for Ecuador's production system by having an effect both on

current exports and on products with export potential in the European Communities that were currently marketed in other countries (G/SPS/GEN/714). Bolivia and Colombia highlighted that some of the products were currently being promoted *inter alia* by policies supporting alternatives to narcotic crops, some of which were funded by the European Communities or its member States. The Philippines indicated that the effects of the novel food regulation and of EC regulations on genetically modified food were still being evaluated.

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

59. In October 2006, Peru, Ecuador and Columbia reiterated concerns related to the European Communities Regulation 258/97 on Novel Foods. They maintained that the regulation constituted a non-technical barrier to trade in these products as it was not flexible, made no distinction between strictly novel foods known risk and no known risk and genetically modified organisms (GMOs), and scientifically unjustified. They noted that exotic products originating from Latin America were not as a result of any type of genetic modification but rather formed part of the biodiversity of the region and were consumed traditionally. Furthermore, there had been inconsistencies in the procedures for the application of this regulation throughout the European Communities. The European Communities had not considered the fact that many of the traditional products had been marketed in a number of countries with very strict sanitary standards and there were methodological guidelines in order to obtain an authorization.

60. The European Communities were requested to promptly review regulation 258/97, excluding from its scope of application exotic traditional products resulting from biodiversity, and to take into account scientific assessments and relevant evidence from other countries and competent international organizations when risk assessments are made. The European Communities could adopt an exclusive regulation that separated GMOs from unwanted association with exotic products, and that established different procedures for novel foods of known risk and no known risk in the European Communities. The European Communities were also requested take into account the history of the product in the world, the consumption patterns and traditional knowledge in its use and preparation. This would provide for greater flexibility in the application of the regulation and thus facilitate the entry of exotic traditional products into the European market.

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

62. The European Communities reported that there had been various exchanges of formal communications between the Members concerned. The European Communities acknowledged the problem with products (products of biodiversity or traditional products), which were not in the EC market prior to 1997 and noted that the regulation was not discriminatory as EC producers had to undergo similar risk evaluations. These products, whatever their potential, were incremental to the

enormous volume of imports of foods and vegetables currently in the EC market. The Eueropean Communities reiterated its request that the Members concerned should submit data on the volume of such trade and risk assessments carried out in other developed countries. The European Communities indicated that it was putting forward a new proposal that addressed the genuine concerns of Members. However, there was a need for a more proportionate regime to improve the imports of these product. A public consultation had been held on the matter and the European Communities appreciated the contributions from the concerned countries.

Other Concerns

219. European Communities - EurepGAP requirements for bananas

Raised by:	St. Vincent and the Grenadines
Supported by:	Argentina, Belize, Cuba, Dominica, Ecuador, Egypt, Indonesia, Jamaica, Kenya, Mexico, Peru and South Africa
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 16-20), October 2006 (G/SPS/R/43, paras. 40-41).
Relevant document(s):	Raised orally
Solution:	Not reported

63. In June 2005, St. Vincent and the Grenadines reported that EurepGap certification, introduced in 1997, had now been made a condition for continued trade into UK supermarkets. Some of the measures in the EurepGap certification programme were clearly within the scope of the SPS Agreement. Jamaica indicated similar problems with EurepGap requirements for fresh fruit and vegetable entry into the European Communities. Since a reading of the EC food and feed regulation indicated that the Eurep/Gap requirements were private sector requirements, Jamaica asked what recourse was available to exporting countries.

64. The European Communities clarified that EurepGap was a private sector consortium representing the interests of major retailers. Even if these standards, in certain cases, exceeded the requirements of EC SPS standards, the European Commission could not object to them as they did not conflict with EC legislation. The European Communities encouraged developing country Members, and particularly least-developed country Members, to discuss this issue with non-governmental organizations since, in many respects, the EurepGap requirements reflected their concerns.

65. Peru recalled that Article 13 of the SPS Agreement referred to implementation by non-governmental entities within the territory of the Member. Ecuador noted concerns regarding the impact of this issue on trade towards the European Communities. Mexico indicated that it was only when SPS measures were adopted by governmental authorities that a Member had the obligation to ensure that governmental and non-governmental entities involved were implementing them properly, as provided for in Article 13. Annex 3 of the TBT Agreement established a code of good practice for non-governmental standard-setting institutions developing food quality standards. This code had been accepted by many of these organizations. Mexico suggested that the SPS Committee examine these provisions of the TBT Agreement before reaching any conclusion on the issue.

66. Argentina noted that international agreements existed to ensure that SPS measures were not unnecessarily stringent so as to act as barriers to international trade, and countries had devoted substantial resources to participate in standards development and implementation. If the private sector adopted unnecessarily restrictive standards affecting trade, and countries had no forum in which to advocate rationalization of these standards, twenty years of discussions in international fora

would have been wasted. Argentina argued that the rational and legal aspects of these kinds of regulations had to be addressed.

67. In October 2006, Saint Vincent and the Grenadines indicated that their concerns with respect to the EurepGAP issue remained the same, even after the informal session held before the meeting to explain the issue of private standards. The cost implications of these private standards, which were often of greater rigidity than the internationally set standards were very huge, especially for small farmers in small and vulnerable economies. Argentina, Belize, Cuba, Dominica, Egypt, Indonesia, Kenya and South Africa shared the concerns of Saint Vincent and the Grenadines and suggested that the issue of private and commercial standards in general should be included on the agenda of upcoming SPS Committee meetings.

GUATEMALA

CONCERNS RELATED TO MEASURES MAINTAINED BY GUATEMALA

Animal Health and Zoonoses

Other animal health concerns

210. Guatemala - Restrictions on imports of chicken meat

Raised by:	Mexico
Supported by:	European Communities
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 28-29), June 2006 (G/SPS/R/42, paras. 27-29), October 2006 (G/SPS/R/43, paras. 148-149)
Relevant document(s):	
Solution:	Not reported

68. In March 2005, Mexico recalled that his country had raised a concern on Guatemala's restrictions on imports of chicken meat. Progress towards a solution to the problem had been made recently and Mexico would continue to monitor the issue bilaterally and in the context of the Regional Organization for Agricultural Health (OIRSA). Guatemala confirmed its willingness to continue working on this issue with Mexico.

69. In June 2006, Mexico noted continuing problems related to Guatemala's import prohibition on poultry meat products and sub-products (including eggs). The long delays with which Guatemala's Ministry of Agriculture (MAGA) had responded to the multiple requests for importation of such products from Mexico violated the timeframes established by Guatemalan authorities. In April 2005, Mexico had sent MAGA the model zoosanitary certificates for approval, accompanied by information on avian diseases in Mexico. Although in November 2005, during a meeting of a bilateral SPS technical expert group, Guatemalan authorities had committed to carry out a risk assessment and provide a response, no response had yet been received. During January and February 2006, Mexico had asked Guatemala to remove restrictions imported in response to an alleged outbreak of low pathogenic avian influenza, taking into account OIE guidance. At the same time, Mexico requested information on Guatemala's avian influenza situation in order to open Mexico's market for poultry products from Guatemala. Bilateral meetings had been held in the margins of the 34th meeting of the SPS Committee. In June 2006, Mexico had received a communication from MAGA indicating that due to the difference in sanitary status between the two countries, Guatemala would not lift its import restrictions on poultry products and sub-products from Mexico. At the same time, Guatemala declined to respond to Mexico's questionnaire on Guatemala's avian influenza situation. Mexico

considered that Guatemala's actions violated the OIE Code and the SPS Agreement, and hoped that Guatemala would soon respond to Mexico's requests, allowing trade of poultry products and sub-products between both countries.

70. The European Communities indicated that exports from EC member States to Guatemala had been disrupted because of avian influenza concerns. The European Communities emphasized that such measures should be proportional to the risk, taking into account Article 6 of the SPS Agreement. The European Communities intended to pursue the issue bilaterally.

71. Guatemala indicated it would work bilaterally to resolve the issue related to EC exports.

72. In October 2006, Mexico reported that although it had taken various measures at bilateral level to reach a solution, Guatemala continued to be in breach of its obligation under Articles 5 and 6 of the SPS Agreement. Mexico requested Guatemala to suspend the restrictions imposed on Mexican poultry imports.

73. Guatemala indicated that a meeting of the technical bodies of both Members was to be held on 17-18 October 2006, where an analysis of the situation would be made. At the meeting, the health situation of both countries, domestic quarantine measures and the situation regarding avian influenza were to be reviewed. Guatelamala was hopeful that the meeting would enable technicians from both parties to reach a satisfactory solution.

INDIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Food Safety

240. India – Biotech labelling and import approval process regulations

Raised by:	United States
Supported by:	Argentina, Brazil, Canada
Dates raised:	June 2006 (G/SPS/R/42, paras. 15-16),
Relevant document(s):	G/TBT/N/IND/17, G/TBT/N/IND/12
Solution:	Not reported

74. In June 2006, the United States referred to India's notifications to the TBT Committee affecting trade in biotechnology products. The Ministry of Commerce and Industry's "Supplement to the Government of India's Foreign Trade Policy, Condition 18" (G/TBT/N/IND/17) would require that its Genetic Engineering Approval Committee (GEAC) provide pre-approval of imports. The Ministry of Health and Family Welfare's proposed mandatory labelling requirement for biotechnology products (G/TBT/N/IND/12) would also require pre-approval by the GEAC. The United States requested that these measures be notified to the SPS Committee to allow an opportunity for comments and that their implementation be delayed until a number of issues could be resolved. In particular, the United States was concerned about: the lack of clarity with regard to the scope and process of the proposed measures and their scientific justification; what procedures would be in place for pre-approval of imports and once approved; what procedures would be in place domestically and at the ports for enforcement; and what was the scope and the justification to require that the process of production be included on the label. Without clarification of these questions, US exports to India would be negatively affected.

75. Argentina, Brazil and Canada shared the concerns raised by United States and asked that Members be given an opportunity to comment on the measures before their adoption. Canada indicated that it would provide comments on the relevant TBT notifications and also invited India to notify its measures to the SPS Committee and take into account comments of other Members.

76. India took note of the concerns raised and stressed that the proposed regulation on pre-approvals was not new as it had already been notified in 1989. The purpose of the current proposal was to make the requirements mandatory. The objective of the mandatory labelling requirement was to provide correct information to consumers about the nature of the food. India was committed to following the transparency requirements and would consider notifying the relevant measures to the SPS Committee and would take into account comments received before the measures entered into force.

Animal Health and Zoonoses

Other animal health concerns

62. India – Restrictions on imports of horses

Raised by:	European Communities
Supported by:	
Dates raised:	March 1999 (G/SPS/R/14, para. 20), October 2006 (G/SPS/R/43, paras. 22-24)
Relevant document(s):	G/SPS/GEN/112
Solution:	Not reported

77. In March 1999, the European Communities indicated that trade in horses with India had been interrupted, although the necessary health guarantees had not been identified. Import restrictions were based on the presence of contagious equine metritis. The European Communities presented a series of questions to India, including a request for justification of India's measure which was more stringent than the OIE Code.

78. In October 2006, the European Communities again raised concerns regarding India's import conditions for live horses from some EC member States on the basis of Contagious Equine Metritis (CEM). India's requirements that allowed only for the importation of breeding horses from countries which had been free of CEM for a minimum of three years was not based on international standards and recommendations, in particular Article 2.5.1.1 of the OIE Terrestrial Animal Health Code which set conditions of live horses to be exported safely in respect of CEM. India had not provided any scientific justification for import requirements containing higher protection measures than reflected in international standards, and thus was not complying with Article 3.3 of the SPS Agreement. Despite numerous bilateral discussions on the issue during 2005 and 2006, no progress had been made. No response had been received to a document submitted by the United Kingdom in January 2006 with further scientific evidence that export of breading horses from that country posed no risk for the Indian equine population. The European Communities urged India to bring their import requirements for CEM in line with OIE recommendations.

79. India stated that it allowed the import of live horses, including breeding horses, under existing health protocols. Although it was free from CEM, India allowed imports of male horses less than seven years of age and female horses less than five years of age. India indicated that some CEM-positive countries in the European region were regularly exporting live horses to India. With regard to the OIE guidelines, consultation with the relevant technical experts was being done and a report on

the issue was expected very soon. India was willing to discuss the issue bilaterally with the European Communities.

80. The European Communities stressed the fact that some EC member States were experiencing restrictions on the export of live horses to India, and welcomed the opportunity for further bilateral discussions.

INDONESIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDONESIA

Animal Health and Zoonoses

Concerns related to FMD

244. Indonesia - Legislation on importation of live animals and meat products

Raised by:	Brazil
Supported by:	Argentina, Australia, New Zealand
Dates raised:	October 2006 (G/SPS/R/43, paras. 17-21)
Relevant document(s):	G/SPS/N/IDN/30
Solution:	Not reported

81. In October 2006, Brazil expressed concern regarding Indonesia's Government Regulation 82/2000 applicable to quarantine import procedures for animals and related products. Brazil noted that Regulation 82/2000 did not comply with the regionalization provisions of Article 6 of the SPS Agreement or with Chapter 1.3.5 of the OIE Territorial Animal Health Code as it did not take into account the sanitary characteristics of the areas from which the products originated, but required the whole territory of an exporting country to be free of any diseases that were not present in Indonesia. As a result of Indonesia's regulation, Brazil was frequently facing import restrictions on a broad variety of its products on the basis of the food-and-mouth disease (FMD), even from FMD free zones. In particular, there was no scientific justification for import restrictions on goods which could not under any circumstance transmit the FMD agent, meat products submitted to treatments which were internationally recognized as capable of inactivating the FMD virus, and restrictions on heat-treated vegetable products. These unjustified import restrictions resulted in huge financial losses. Brazil urged Indonesia to adopt national protection levels based on risk assessments, taking into account the relevant provisions of the SPS Agreement and OIE standards.

82. Argentina, Australia and New Zealand expressed similar concerns regarding Indonesia's draft Regulation (G/SPS/N/IDN/30) on the importation of meat products. They indicated their intentions to submit comments on the draft regulation before the comment deadline. Argentina urged Indonesia to adjust its risk analysis to the OIE standards, while New Zealand further noted that Indonesia had not indicated in its notification when the draft Decree might be adopted. They encouraged Indonesia to work with other Members to address their concerns before adopting the draft Decree.

83. Indonesia reported that with regards to the importation of live animals and meat products, Indonesia had been conducting a review on its legislation and would soon notify to the WTO a new decree on import of meat of various types of species. The new regulation replaced the existing regulation (Decree 745/1992) on the requirements of meat importation. One of the eventual requirements for countries to be eligible to export meat and meat products intended for human

consumption to Indonesia was their FMD free status. Recognition of the disease-free status would be based on an OIE declaration. A further requirement for FMD-free countries to export meat to Indonesia would be a desk audit and on-site audit to be carried out by the Director General of Livestock Services (DGLS). In relation to animal importation, existing regulation would remain in effect.

84. With regards to BSE, Indonesia stated that the requirements for the importation of live ruminants and ruminant products from countries or zones declared as negligible BSE risk by the OIE had been set out in a new decree. In principle, under the new regulation, live ruminants and ruminant products from countries or zones declared as negligible BSE risk by the OIE were allowed to be imported to Indonesia. Imports of meat and meat products from BSE-risk countries were prohibited. However, there were exceptions that included meat and meat products originating from de-boned meat as specified in Article 2.3.1.3.1 of OIE Code. The additional requirements to export meat and meat products to Indonesia were that such commodities should have originated from an establishment approved by the DGLS and also met the healthy food requirement of Indonesia.

85. The representative of the OIE clarified that Article 1 of the BSE chapter contained a list of safe commodities that were judged to present no BSE risk no matter the BSE status of the exporting country. This included de-boned skeletal muscle meat that could be imported from a country irrespective of its BSE status.

Plant Health

243. Indonesia - Lack of recognition of pest-free areas

Raised by:	United States
Supported by:	Australia
Dates raised:	October 2006 (G/SPS/R/43, paras. 14-16)
Relevant document(s):	G/SPS/N/IDN/24
Solution:	Not reported

86. In October 2006, the United States expressed concerns regarding Indonesia's Decree 37 implemented in March 2006, which established new phytosanitary requirements on fruit imports that failed to recognize fruit fly free areas in the United States. For decades, US fruits originating from pest-free areas had been shipped to Indonesia without any quarantine incidence. The new measure had resulted in US fresh fruit being subjected to unwarranted pest treatment before being exported to Indonesia. The United States noted that the International Standards for Phytosanitary Measures (ISPM) guidelines used by the United States were recognized by their trading partners worldwide, but Indonesia had failed to amend its assessment of the fruit fly status in the United States even after the United States had extensively communicated and provided Indonesia's Ministry of Agriculture with the information requested. The measures imposed by Indonesia for quarantine fruit flies were overly restrictive and scientifically unjustified and had impacted exports of eleven types of US fruits, including apples and grapes. The United States requested Indonesia to allow the entry of US grapes accompanied by a Federal phytosanitary certificate and additional documentation attesting that the grapes were grown in a fruit fly-free area.

87. Australia shared the concerns of the United States and indicated that it was working directly with Indonesia and hoped to resolve the issue in the near future.

88. Indonesia reported that the issue had been discussed with the United States in a bilateral meeting. Based on their discussion, Indonesia was confident that the matter would be resolved

amicably in the near future. Indonesia indicated that it was to send an expert team to do an on-site inspection of a Mediterranean fruit fly-free area for grapes in the State of California. Indonesia needed further information on the sites to be visited, including the production area of grapes in specific sites in California, substantial geographical information, a list of registered grape growers in the production area of California, information on surface processing, packaging and storage facilities, and the procedure of phytosanitary certification. Indonesia reiterated its commitment to resolving the matter as early as possible and in a mutually beneficial manner.

ISRAEL

CONCERNS RELATED TO MEASURES MAINTAINED BY ISRAEL

Animal Health and Zoonoses

Concerns related to TSEs

232. Israel - Import restrictions on EC beef due to BSE

Raised by:	European Communities
Supported by:	
Dates raised:	October 2005/February 2006 (G/SPS/R/39, paras. 41-42), March 2006 (G/SPS/R/40, paras. 44-45)
Relevant document(s):	
Solution:	Not reported

89. In October 2005, the European Communities noted that exports of EC beef into Israel were currently allowed only from a limited number of EC member States and restricted to calves younger than 6-8 months. No native case of BSE had been detected in some of the EC member States whose beef imports were prohibited. BSE protective measures were equally implemented through the whole EC territory and equally applied to beef for consumption within the European Communities and beef for export. With regard to the restriction to calves younger than 6-8 months, amendments to the Terrestrial Animal Health Code adopted by the OIE in May 2005 included the addition of deboned skeletal muscle meat of animals less than 30 months to the list of products which could be safely traded, under certain conditions, regardless of the BSE status of the exporting country.

90. Israel reported that his country had already engaged bilaterally with the European Communities on this issue in order to find a mutually satisfactory solution.

91. In March 2006, the European Communities reported that Israel continued its restrictions on beef from EC member States. However, Israel's veterinary services had indicated its willingness to address this issue on the basis of further OIE developments during the coming months, and the European Communities would inform the SPS Committee of the final results of its bilateral consultations with Israel.

92. Israel noted that in general imports of beef and bovine products were permitted, provided there was no record of BSE in the exporting country and that the import was approved by the Israeli veterinary service.

Plant Health

233. Israel - Absence of phytosanitary import legislation

Raised by:	European Communities
Supported by:	
Dates raised:	October 2005/February 2006 (G/SPS/R/39, paras. 39-40), March 2006 (G/SPS/R/40, paras. 36-37), June 2006 (G/SPS/R/42, paras. 30-31)
Relevant document(s):	
Solution:	Not reported

93. In October 2005, the European Communities reported that this trade concern had been raised bilaterally on several occasions since 1984. Draft import legislation had been provided to the European Communities in November 2003. Its revision, which addressed some of the comments made by the European Communities in May 2004, had been issued in January 2005 to be presented for revision, approval and publication by the Israeli competent authorities. However the legislation was still at the draft stage, despite repeated promises by Israel that a final text would be published in 2005. The European Communities considered that the lack of phytosanitary legislation contravened Article 7 of the SPS Agreement and created unpredictability for EC exporters of plants and plant products. Furthermore, the draft import legislation maintained the system of import licenses and permits currently imposed by Israel. Israel indicated that these concerns would be transmitted to the relevant Israeli authorities and addressed as soon as possible.

94. In March 2006, the European Communities noted that the continuing absence of phytosanitary import legislation in Israel led to uncertainty for EC exporters and was in contradiction with international standards. Although some corrective actions had been taken by Israel, the legislation continued to be in a draft stage, and final approval by Israel's relevant authorities was still pending. The European Communities urged Israel to adopt national legislation containing phytosanitary import requirements as soon as possible.

95. Israel stressed it's full commitment to comply with the obligations of the SPS Agreement. Israel was aware of the importance of a coherent and transparent legislation to allow the smooth development of international trade. Israel had informed its trading partners that new and comprehensive draft legislation was under preparation. This legislation would be submitted to Israel's newly elected parliament. Israel had undertaken measures which showed its willingness to respond to its trading partners' concerns.

96. In June 2006, the European Communities complained that Israel's phytosanitary import legislation was still at a draft stage, although efforts were being made to publish the final legislation. The European Communities invited Israel to finally adopt this legislation.

97. Israel explained that the plant protection and inspection services of Israel were revising and modifying Israel's import regulations for plants and plant products. The regulations had existed since 1971, and had been revised and modified since then to comply with the SPS Agreement. Various products and commodities were allowed according to their phytosanitary risk and imports permits for new products were granted after a pest risk analysis. The revision process, which required attention to hundreds of products, was taking longer than expected. The import requirements for most products were already specified in the import permits and could be found on the website of the Ministry of Agriculture, but the interagency legislative process had not yet been completed. The Ministry of Agriculture was expected to send its final draft phytosanitary import legislation to the Ministry of Justice within weeks; then the draft would be sent to the Israeli Parliament. Israel's plant protection

and inspection services were doing their utmost to facilitate trade with the European Communities and with other trading partners..

JAPAN

CONCERNS RELATED TO MEASURES MAINTAINED BY JAPAN

Food Safety

212. Japan - Positive list system for pesticides, veterinary drugs and feed additives MRLs

Raised by:	China, United States
Supported by:	Australia, Philippines
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 19-21), October 2005/February 2006 (G/SPS/R/39, paras. 49-51 and 61-63), June 2006 (G/SPS/R/42, paras. 22-24)
Relevant document(s):	
Solution:	Not reported

98. In March 2005, China noted that the proposed adoption of a single standard limit of 0.1ppm for 700 types of pesticides, veterinary drugs and feed additives for which no specific residue limit had been established would jeopardize Chinese exports of vegetables to Japan. China requested that Japan assess the possible impact of such an amendment on exports to Japan, provide opportunities to discuss the results of this assessment and consider solutions to minimize its impact. Japan should also provide the science-based risk assessment that had led to the amendment of the MRLs. Should there be any notification in the future on this issue, Japan should provide a comment period of at least 60 days as of the date of distribution and extend this upon request, and allow an adequate adaptation period in accordance with the Doha decision. China also sought clarifications on Japan's detection methods for residues. The Philippines supported China's concerns on this issue and requested relevant information from Japan in order to assess the possible implications of this proposed amendment on the Philippines' exports.

99. Japan clarified that the its new positive list system, based on the revised Food Sanitation Law, was aimed at regulating the distribution of foods that contained agricultural chemicals, veterinary drugs and feed additives for which no MRLs had yet been established. Before the positive list system entered into force, the Ministry of Health, Labour and Welfare would compare its provisional MRLs with the Codex standards.

100. In February 2006, the United States reported that in June 2005, Japan had notified its final draft of thousands of new provisional maximum residue limits (MRLs) for over 700 pesticides, veterinary drugs and feed additives covering all basic commodity groups. In November 2005, the provision of a six-month transition period before official enforcement of the provisional MRLs had been notified. The Ministry of Agriculture, Forestry and Fisheries of Japan (MAFF) had announced in December 2005 the implementation and enforcement of the provisional MRLs on rice, wheat, barley and possibly other commodities. The United States was concerned about the effect of these new MRLs on agricultural exports to Japan and requested Japan to clarify its plans regarding the enforcement of these MRLs.

101. China requested Japan to grant at least an additional 18 months for developing country Members to adjust the application of agriculture chemicals, conduct training and education activities, provide guidance to farmers and make laboratory preparations. Although Japan argued that it had

taken three years to prepare the draft of its positive list system and had already notified this three times, each time the number of MRLs and product coverage varied. A two-year adaptation period was appropriate to allow the decline of pesticide residues in soil and air after their use had ceased. Moreover, considering the number of MRLs identified, a phased introduction of the new MRL requirements was necessary. Furthermore, Japan had published only some of the testing methods used to develop the MRLs, and many of these testing methods were only illustrated by flow charts. China requested that Japan notify in advance all available and newly developed testing technology and methods for all provisional MRLs listed in the positive list system, and provide a 60-day comment period and a 6-month adaptation period.

102. Australia expressed appreciation for Japan's collaborative attitude when developing this comprehensive new positive list and encouraged Japan to provide some clarification regarding the nature of testing requirements.

103. Japan clarified that, in accordance with the amendment of the Food Sanitation Law of May 2003, the positive list system for pesticides, veterinary drugs and feed additives in food would be implemented as of May 2006 as had been officially announced in December 2005. From August to October 2005, Japan had explained to governmental organisations of countries exporting rice, wheat and barley to Japan that the new inspection system was to be implemented in December 2005. Japan could not extend the adaptation period as the framework of the system had been published three times since 2003. The final draft had been released in November 2005, and Japan considered that a six-month implementation period was sufficient. Japan had developed and published analytical methods for more than 500 substances when developing the positive list system and would continue to establish and publish analytical methods for additional substances. Japan would provide China with technical advice about analytical methods if requested.

104. In June 2006, China noted that Japan's positive list system for agricultural chemical residues in food had entered into force on 29 May 2006. While recognizing Japan's right to revise its residue standards to safeguard the health of its citizens, China was concerned since Japan was the largest importer of food from China. Japan had only published testing methods for 553 agricultural chemicals; testing methods for another 200 chemicals were still lacking, which could seriously affect efforts of developing country Members to study these methods. In addition, Japan was not following the Codex guidelines for judging test results. China requested Japan to publish all testing methods, notify them, offer a 60 day comment period, provide a six month transitional period before they entered into force and offer technical training and education to China.

105. China further asked Japan to explain why it had started implementing the positive list system in December 2005 by requiring that rice be tested according to the new MRLs, well ahead of the May 2006 implementation date. This had raised costs for Chinese rice exports and interrupted trade, since farmers had no time to adjust their chemical use. From January to June 2006, on three occasions, China had been given only two weeks to comment on certain MRLs, which was too short. China requested an explanation of the relationship between these MRLs and the positive list system. In China's view, these changes should be notified to the WTO. Finally, China noted that both the Japanese and English versions of the positive list system contained many editing errors and that therefore there were constant changes and asked Japan to provide a clear and comprehensive list of MRLs for agricultural chemicals at an early date. Previous efforts to resolve the problems had not succeeded, and China urged Japan to address China's concerns in a scientific way.

106. Japan confirmed that its positive list system for agricultural chemicals including pesticides, veterinary drugs and feed additives had taken effect on 29 May 2006. For the establishment of provisional MRLs, Japan had taken into account Codex standards; existing residue levels for pesticides set under the Agricultural Chemicals Regulation Law or limits of determination for veterinary drugs set under the Pharmaceutical Affairs Law; and MRLs set by other countries where

residue standards were based upon the toxicological data required by the Joint WHO/FAO Expert Committee on Food Additives (JECFA) and the Joint WHO/FAO Meeting on Pesticide Residues (JMPR). Since these MRLs had been established through a globally accepted approach, Japan believed them to be consistent with WTO principles. Japan used a toxicological threshold of 1.5 µg/day to determine the uniform limit, based on JECFA, US FDA and JMPR evaluations. The uniform limit had been set at 0.01 ppm, based on the food consumption patterns of the Japanese population. Japan had published analytical methods for 623 substances and would continue to finalize and publish the remaining analytical methods for other substances. When Japan newly established or amended standards, including MRLs, under the Food Sanitation Law, these were explained to foreign embassies in advance of WTO notification. After this meeting, comments were requested within two weeks, after which the notification was sent to WTO, with a 60-day comment period.

Animal Health and Zoonoses

Concerns related to TSEs

213. Japan - Restrictions on beef imports

Raised by:	United States
Supported by:	European Communities
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 30-31), June 2005 (G/SPS/R/37/Rev.1, paras. 53-55), October 2005/February 2006 (G/SPS/R/39, paras. 43-45), March 2006 (G/SPS/R/40, paras. 46-47)
Relevant document(s):	G/SPS/R/36/Rev.1, paras. 10-14
Solution:	Not reported

107. In March 2005, the United States emphasized its concerns regarding Japan's continuing restrictions on US beef based on the detection, in December 2003, of a single case of BSE in an imported cow. It recalled its ongoing cooperation with Japan, over the past 14 months, to resolve all scientific and health concerns about the safety of US beef., The October 2004 bilateral agreement required the United States to provide all the scientific information requested by Japan and to allow access for Japanese technical officials to US facilities. Effective firewalls had been in place for many years to prevent the establishment and spread of BSE within the United States. In response to the single case of BSE, the United States had implemented several additional regulatory measures to further strengthen existing safeguards, had completed a comprehensive epidemiological investigation and taken many other actions described in the report of the March meeting. Given that there had been no indigenous cases of BSE reported, there was sufficient scientific evidence for Japan to immediately remove restrictions on US beef and beef products.

108. Japan indicated that the US beef issue was one of the most important policy agenda items for the Japanese government. Japan recalled that the October 2004 bilateral framework agreement to resume the two-way trade in beef was subject to the respective domestic approval processes including deliberation by each Member's food safety commissions. The Japanese Food Safety Commission would undertake a risk assessment for imports of US beef as soon as it had completed its risk assessment of domestic BSE measures.

109. In June 2005, the United States emphasized over the past 17 months, the United States had provided Japan with extensive technical information on all aspects of its BSE-related protection measures, internationally recognized as effective and appropriate, for both food safety and animal health. The United States stressed that, according to the revised OIE standards, the recent detection of one BSE-infected animal blocked from the food and feed chain could not be used as an excuse to

restrict imports of US beef products. The European Communities invited Japan to replace its import ban with specific requirements in accordance with OIE standards. Japan reported that the Food Safety Commission had completed the risk assessment on domestic beef on 6 May 2005 and was now carrying out the risk assessment on US beef.

110. In February 2006, the European Communities reported that Japan had recently reopened its market for beef exports from some EC member States, but in accordance with Articles 2.3 and 3.3 of the SPS Agreement, Japan should reopen its market to bovine products from all EC member States. The protective BSE measures, including the implementation and enforcement of the feed ban, the removal of specified risk materials and the elaboration of an identification, registration and traceability system for bovines and their products able to warrantee the age of each bovine, could fully satisfy the safety of consumers anywhere in the world. The United States noted that Japan had re-opened its market for some US beef products but maintained scientifically unjustified restrictions on other products, inconsistent with international standards.

111. Japan observed that numerous countries still suspended beef imports from BSE-infected countries and that international standards on BSE changed every year. On the basis of its risk analysis, Japan had decided to reduce its beef imports from a few BSE-affected countries.

112. In March 2006, the European Communities indicated that despite bilateral efforts following the consideration of this issue at the last SPS Committee meeting, progress on this issue had not been satisfactory. In the light of favourable developments of the disease situation in the European Communities and due to recent changes in the OIE Terrestrial Animal Health Code chapter on BSE, it was time for Members to implement international standards for BSE. The European Communities could satisfy Japan's requirements related to the feed ban and its enforcement; the removal of specific risk materials; and an effective system of identification and registration and traceability for bovines and their products. Japan had denied the EC request to perform BSE risk assessments for interested EC member States, in contravention of Articles 2.3 and 3.3 of the SPS Agreement. The European Communities invited Japan to review its ban on imports of EC beef on the basis of a risk assessment and noted that useful discussions had been held just prior to the meeting.

113. Japan indicated that Japan had decided in January 2006 to hold technical consultations between experts from Japan and from those EC member States interested in exporting beef to Japan.

Concerns related to FMD

222. Japan - Import suspension of heat-processed straw and forage for feed

Raised by:	China
Supported by:	
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 33-34), June 2006 (G/SPS/R/42, paras. 25-26)
Relevant document(s):	
Solution:	Not reported

114. China recalled that, following an FMD outbreak in May 2005 in a few Chinese provinces, Japan had issued an overall import suspension of straw and forage for feed from China at the end of May 2005. However, the straw and forage exported to Japan originated from FMD-free areas, and was subject to heat treatment more than sufficient to kill FMD viruses, under joint monitoring of Chinese and Japanese inspectors. Japan's ban lacked scientific evidence in contravention to the SPS

Agreement. China invited Japanese officials to undertake the necessary controls and discussions with the competent departments.

115. Japan recalled that it had suspended imports of heat-processed straw and forage from China at the end of May 2005 to respond to repetitive detection of faeces in imported straw and intentional replacement of heat-treated with non heat-treated straw, in violation of Japan's animal health requirements and of Article 2.2.10.28 of the OIE Code. These products had been accompanied by a genuine Chinese animal health authority certificate, in violation of paragraph 6 of Article 1.3.4.72 of the OIE Code. Considering the recent rapid spread of FMD in China, Japan had suspended importation of heat-processed straw and forage until the Chinese Government addressed these issues.

116. In June 2006, China recalled that Japan's measures with regard to import of straw and forage for feed required unnecessary additional assurances, exceeding the OIE standard. There was no risk of transmission of any disease after straw and forage were heat-treated at a temperature of 80 degrees or more for at least 10 minutes. Japan was using the FMD situation in China as an excuse for trade restrictions and was not applying the concept of zoning/regionalization as there were no new cases of FMD in the counties where straw and forage were produced. China requested Japan to consider the complaints of the Chinese industry as well as of Japanese importers and to amend its unscientific and unnecessary trade restrictions following OIE standards and WTO rules.

117. Japan observed that any straw and forage other than rice straw were permitted for importation into Japan on the condition that pests were not detected in the process of import inspection. Regardless of its use in Japan, the importation of rice straw was prohibited from all countries other than Korea, Democratic People's Republic of Korea and Chinese Taipei. If rice straw went through disinfection treatment, such as heat treatment with water vapour, it could be imported into Japan. In order to prevent the introduction of FMD into Japan, imports of heat-treated straw and forage for feed from China were permitted only if there was no FMD infection around the areas where raw materials were produced, processed and stored and appropriate heat treatment was carried out. Japan had to suspend the importation of heat-treated rice straw in May 2005 after repeated violations of the requirements detected at some ports of entry into Japan. In addition, China had officially notified to the OIE the spread of the infected area and the increase in the number of areas of foot and mouth disease. Japan had not received sufficient data from the China to support the claim that rice straw was produced in disease-free areas. Once the data requirements were complete, Japan would review the situation to decide whether the import suspension could be lifted and whether any other pre-export measures were necessary.

MEXICO

CONCERNS RELATED TO MEASURES MAINTAINED BY MEXICO

Animal Health and Zoonoses

Concerns related to avian influenza

225. Mexico - Restrictions on US poultry

Raised by:	United States
Supported by:	Canada
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 26-29), March 2006 (G/SPS/R/40, paras. 41-43)
Relevant document(s):	G/SPS/N/MEX/200
Solution:	Not reported

118. In June 2005, the United States stated that Mexico was banning imports of poultry and poultry products from an entire US state in which cases of low pathogenic avian influenza (LPAI) had been reported in some areas. Mexico also required avian influenza (AI) testing for layer and broiler flocks regardless of whether or not AI had been reported. Only two subtypes of AI (H5 and H7) had been found to mutate into the highly pathogenic forms of the disease. Low pathogenic strains of AI did not cause systemic disease and had not been shown to be of consequence for animal health or food safety. The OIE did not recommend any trade restrictions on poultry and poultry products when cases of low pathogenic strains of AI of non-H5 and H7 subtypes were reported and only limited measures for low pathogenic strains of the H5 and H7 subtypes. The relevant scientific evidence showed that the LPAI virus did not appear in the muscle tissue of an infected chicken and that neither fresh meat nor eggs imported from regions affected by low pathogenic AI posed a risk of transmitting the disease. Given the scientific evidence underpinning the recently-adopted changes in the relevant international standard, the United States encouraged Mexico to modify its import restrictions and testing requirements.

119. Canada indicated that in March 2004, Mexico had banned the importation of poultry and its products from all of Canada in response to the findings of high pathogenic avian influenza (HPAI) in British Colombia. Canada had kept all trading partners fully informed of the control measures it had imposed to limit the outbreak to British Colombia. Unlike many of its trading partners, Mexico had not regionalized its measures to apply to British Colombia only. Canada had now been free of HPAI for over one year and had provided all the information requested by Mexico to verify this status in accordance with OIE guidelines. Consistent with the OIE, the majority of Canada's trading partners had removed their measures against Canadian poultry. Canada called upon Mexico to do the same.

120. Mexico explained that since May 1994, when low pathogenicity avian influenza (LPAI) had been detected in Mexico, specific SPS measures had been applied to prevent exotic subtypes and control and eradicate the only subtype identified, H5N2. Mexican Official Standard NOM-44-ZOO-1995, which covered any subtype of avian influenza (AI), both low and high pathogenic strains, had been published in 1995. In the United States, various subtypes of low and high pathogenic strains had been officially identified, none of which, with the exception of one, existed in the Mexican poultry sector. The sanitary requirements established by the Mexican legislation in the domestic poultry sector were equivalent to those applied for the export of poultry and poultry products originating in the states affected by AI in the United States. However, the sanitary measures aimed at ensuring epidemiological surveillance and monitoring of the transport of poultry and poultry products applied

in the affected states of the United States were not equivalent to those implemented in the Mexican poultry sector. As the risk of transmission of AI was particularly high in live poultry and less in fresh poultry products and by-products, importation of some poultry products from the quarantined states was allowed. Mexico was continuing to analyze the technical information provided by the United States with a view to the opening up of exports of poultry and poultry products. This additional information had been provided by the USDA during the first quarter of 2005.

121. Mexico recalled that the OIE in May 2005 adopted regulations (Chapter 2.17.12: AI, Terrestrial Animal Health Code) that stipulated that all H7 and H5 subtypes of AI viruses, in both its high and low pathogenic forms, were notifiable as well as any AI virus with an intravenous pathogenicity index (IVPI) greater than 1.2. These regulations also stipulated that a country, zone or compartment could be recognized as free from the notifiable high and low pathogenic forms of AI virus. In accordance with Article 2.1, 2.2, and 2.3 of the SPS Agreement, Mexico had established the health requirements for exporting poultry and poultry by-products from and originating in areas free of notifiable AI viruses or free only of highly pathogenic notifiable AI viruses. Mexico currently allowed imports of poultry, poultry products and by-products from the United States, except for birds and some products from the states affected by a subtype of AI. Regarding Canada, Mexico explained that following an outbreak of highly pathogenic AI of the H7N3 subtype in British Colombia, the province had been quarantined and technical information requested concerning the outbreak. That same month, Mexico had received information identifying the AI virus in ducks and in geese as low pathogenic. In June 2005, it had received information identifying the low pathogenicity virus of the subtype H3, also in British Colombia, and would carry out an assessment of the health situation in respect of AI in British Colombia.

122. In March 2006, the United States expressed appreciation that a bilateral agreement with Mexico in August 2005 had resulted in the removal of bans on US poultry in October 2005. However, in January 2006 Mexico had published a final measure that would modify the existing import conditions previously agreed upon. This final measure had not been notified to the SPS Committee. The United States requested Mexico to notify this final measure and delay its application while allowing Members sufficient time to comment on the measure before its implementation.

123. Mexico indicated that a draft amendment to the 2004 Mexican regulation had been published in notification G/SPS/N/MEX/200, for which Mexico had provided a period for comments by Members. Mexico had received comments, *inter alia,* from the US Department of Agriculture. This notification indicated that the date of entry into force was proposed as the day following publication of the final regulation. The final regulation had been published on 30 January 2006 and had been notified to the North American Free Trade Agreement (NAFTA) contact point on the same day. However, Mexico had decided to delay the entry into force of the measure for 60 days, meaning that the regulation would come into force in April 2006.

124. Mexico further reported that following a meeting on 8 December 2005 between Mexican and US officials, the National Health Service authorized the use of the Enzyme-linked Immunosorbent Assay (ELISA) technique and equivalent mechanisms to validate different types of AI. In Mexico, only the AI subtype H5N2, a low pathogen type, had been detected and it was important for Mexico to avoid the introduction of any other types of AI.

Plant Health

164. 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) June 2006 (G/SPS/R/42, para. 39)
Relevant document(s):	G/SPS/GEN/379, G/SPS/N/MEX/68, WT/DS284,
Solution:	Resolved

125. 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.

126. 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.

127. 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.

128. In June 2006, the United States informed the Committee that the issue had been resolved with Mexico.

ROMANIA

CONCERNS RELATED TO MEASURES MAINTAINED BY ROMANIA

Food Safety

245. Romania – Restrictions on US pork and poultry imports

Raised by:	United States
Supported by:	
Dates raised:	October 2006 (G/SPS/R/43, paras. 25-27)
Relevant document(s):	Raised orally
Solution:	Not reported

129. In October 2006, the United States expressed concern about Romania's decision to already impose EC requirements on US poultry and pork, in advance of Romania's entry into the European Communities. This resulted in large financial losses to US exporters. The United States noted that no poultry and only two pork facilities in Romania met EC requirements. Romania's measures therefore raised potential national treatment concerns, given that a considerable number of Romanian meat

plants were currently not in compliance with the EC regulations and many of the plants had been granted a transition period to 2009 to meet these requirements.

130. Romania expressed surprise that the United States had raised this issue as an acceptable solution to both parties had been sought during a series of bilateral meetings. Although Romania had decided to extend the implementation date of these regulations for US exports, the new regulations were adopted as part of the requirements for Romania's accession to the European Communities. According to the Accession Treaty signed on 25 April 2005, Romania had committed to adopt the EC legislation and was expected to fully comply with SPS legislation already in force in the European Communities before its accession on the 1 January 2007. Romania noted the difficulty it faced in modifying and implementing these new rules, but indicated that Romanian producers observed the same rules as other EC member States and third countries. To ensure transparency and give Members the opportunity to prepare for the new import conditions, all Romanian legislation on import conditions for pork and poultry meat had been notified to the SPS Committee.

131. The European Communities suggested that the United States should look at the broader benefits of Romania's and Bulgaria's accession to the European Communities. This was fully supported by the global community and provided an outstanding opportunity for the Members concerned to strengthen economic growth and development.

UNITED STATES

CONCERNS RELATED TO MEASURES MAINTAINED BY THE UNITED STATES

Plant Health

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

Raised by:	European Communities
Supported by:	China
Dates raised:	July 2001 (G/SPS/R/22, paras. 30-31), March 2005 (G/SPS/R/36/Rev.1, paras. 58-60), June 2005 (G/SPS/R/37/Rev.1, paras. 70-71), October 2005/February 2006 (G/SPS/R/39, paras. 72-73), March 2006 (G/SPS/R/42, para. 40)
Relevant document(s):	G/SPS/N/USA/1059
Solution:	Resolved with the issuance of the US final rule on plants in growing media

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

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

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

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

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

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

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

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

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

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

241. United States - Import restrictions on wooden Christmas trees

Raised by:	China
Supported by:	
Dates raised:	June 2006 (G/SPS/R/42, paras. 13-14), October 2006 (G/SPS/R/43, paras. 145-146
Relevant document(s):	
Solution:	Not Reported

141. In June 2006, China expressed concerns regarding the US decision to stop the importation of artificial Christmas trees from China, although only one enterprise had violated the quarantine treatment requirement which had resulted in the detection of live long-horn beetles in its consignment. This exceptional incident did not indicate a defect of the whole Chinese system. The strict measure taken by the United States did not respect the WTO rules on minimizing the impact on trade and had caused great losses for Chinese enterprises and had also affected the US Christmas tree market. Furthermore, there was an undue delay in the way the issue was dealt with by the United States. The Chinese Government had spared no effort to take corrective measures regarding the whole system, including the enhancement of supervision of the quarantine and inspection system and receiving US inspectors in several provinces in February 2006. Although the experts had indicated their satisfaction with the improvements, no formal response had been received from the United States.

142. The United States replied that between 22 February 2002 and 22 October 2005, during routine 2 percent inspections at US ports of entry, the United States had intercepted quarantine significant pests on wood handicraft products shipped from China 418 times, including on artificial Christmas trees, trellis towers, other home and garden wood décor, and craft items. These interceptions had not abated. The plant quarantine authorities of the United States and China had maintained an on-going dialogue regarding such interceptions. This wood boring pest was closely related to the Asian longhorned beetle which had been introduced into the United States in shipments of wood packing material from China and was now being eradicated in Chicago and New York. The United States had spent in excess of US$200 million on its ongoing eradication effort. Although the United States had requested China to provide an action plan to address the infestations, no response had been received. On 1 April 2005, the United States had adopted emergency measures to suspend the importation of wood handicraft items from China, including artificial Christmas trees, that contained wooden logs, limbs, branches, or twigs greater than one centimetre in diameter and with intact bark. Manufactured items that had been heat treated or fumigated with methyl bromide and had 100 percent of the bark removed were not subject to the import suspension, so the US measure was no more trade-restrictive than necessary. When its assessment of the risk of continued introduction of quarantine pests on manufactured wood commodities from China was completed, this would be shared with China's plant quarantine authorities.

143. In October 2006, China reported that although some progress had been made following bilateral consultations, it was still concerned that the restrictions imposed by the United States were disproportionate and not necessary. Although imports of manufactured items which had been heat

treated or fumigated with methyl bromide was permitted, no information was provided to China since the United States had. detected beetles in wooden trees. China requested details of the enterprises that failed to meet the US quarantine requirements. China had adopted IPPC standards to treat the wooden handicrafts and therefore expected the United States to accept the Christmas trees or to identify alternative procedures so that Chinese enterprises knew how to meet the US requirements.

144. The United States indicated that the measures imposed on the importation of certain manufactured wood items (including artificial Christmas trees with bark attached) from China were imposed after no response was received for a requested plan of action to address the issue. Manufactured wood items that were heat treated or fumigated with methyl bromide and that had their bark removed were not subject to the import restriction. Progress had been made during the bilateral technical discussions in September 2006 and the United States looked forward to receiving China's accreditation proposal for fumigated and heat treatment of wood handicrafts from China.

OTHER CONCERNS

Animal Health and Zoonoses

Concerns related to avian influenza

235. Certain Members - Import restrictions on EC exports of live birds, meat, meat products and other derivates due to avian influenza

Raised by:	European Communities
Supported by:	
Dates raised:	October 2005/February 2006 (G/SPS/R/39, paras. 46-48), June 2006 (G/SPS/R/42, para. 21), October 2006 (G/SPS/R/43, para. 37)
Relevant document(s):	
Solution:	Partially resolved

145. In October 2005, the European Communities stated that it had learned, thanks to SPS notifications, that four WTO Members had recently imposed a ban on EC poultry products including live birds, poultry meat and meat products, feathers, animal feed from poultry meat, bone and feather meal, and other by-products of poultry, on the ground of the presence of avian influenza (AI) in the EC territory. Three of these Members had targeted the ban to Greece, although the suspected case of AI reported by Greece in October 2005 had proved to be negative for highly pathogenic avian influenza (HPAI). The current ban imposed on Greece was not based on science nor on any existing OIE standards. It was therefore inconsistent with Article 3.1 of the SPS Agreement.

146. The European Communities had been recognized by the OIE as free of AI and had rapidly taken effective safeguard measures to protect and maintain this status. A fourth WTO Member had banned imports of the same poultry products from the entire world. According to OIE rules and the provisions of the SPS Agreement, bans on bird products should only apply to regions affected by HPAI. The European Communities urged these four Members to bring their legislation into compliance with international rules and Article 2.2 of the SPS Agreement.

147. Canada requested Members to cautiously react to low pathogenic AI outbreaks, especially in light of the current worldwide sensitivity on AI-related issues, in order to not discourage Members from notifying such outbreaks. Suriname stated his country's concern about the EC ban on imports of wild birds from Suriname. Suriname was an AI-free country, as had been proven by investigations by UK authorities tracking an infected bird detected in a shipment of wild birds. Investigations had demonstrated that the infected bird did not originate from Suriname. Other birds in the same consignment, sent to other EC countries, had shown no sign of the disease. Suriname's exports of wild birds were suffering from the EC ban and Suriname questioned when its exports could resume.

148. In June 2006, the European Communities reiterated concerns that certain Members imposed unjustified measures on EC exports of an excessively broad range of poultry products, including heat-treated ones. Only a limited number of EC member States had confirmed cases of avian influenza and many had rapidly regained disease-free status. The European Communities urged all Members to base their measures on scientific principles and apply the concept of regionalization rather than banning imports from all EC member States.

149. In October 2006, the European Communities informed the Committee that although a significant number of WTO Members had lifted their bans on EC products according to international standards, some Members still had unjustified restrictions in place. The European Communities would continue to seek the lifting of these import restrictions.