WORLD TRADE ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

Addendum

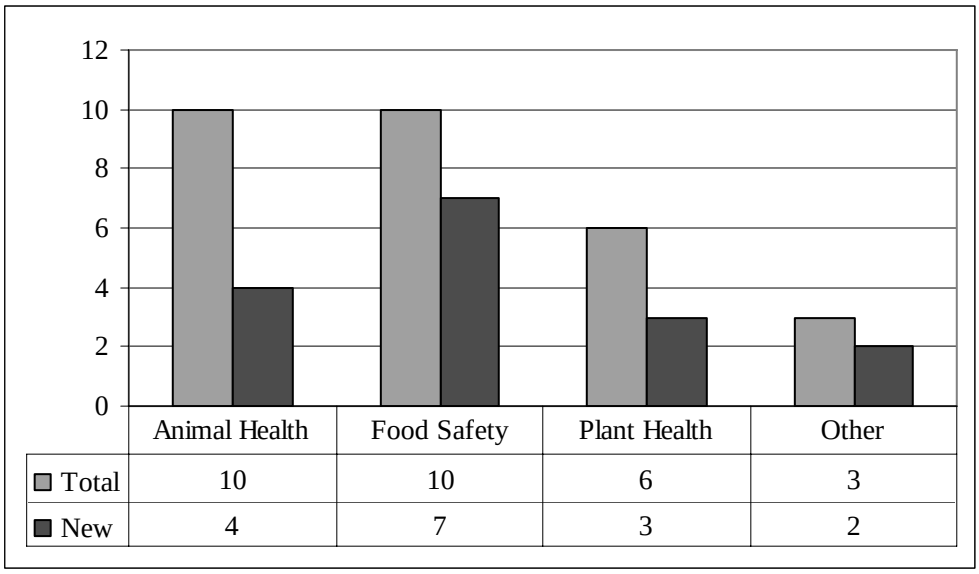
ISSUES CONSIDERED IN 2008

This part of document G/SPS/GEN/204/Rev.9 contains summary information regarding all issues which were raised in the SPS Committee for the first time during 2008, and issues which were previously raised but on which further discussions or activities occurred during 2009. This includes issues for which there was no substantive discussion in the Committee during 2008, 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 2008 (e.g., establishment of a dispute resolution panel on the issue).

A total of 29 specific trade concerns were brought to the attention of the Committee during 2008, of which 16 were new issues. Figure 1 shows all trade concerns raised or for which a resolution or other action was reported in 2008 by subject. Overall, 11 issues (38 per cent) relate to food safety, and six issues (21 per cent) relate to plant health. Ten issues (34 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. Finally, two issues relate to other concerns, namely, inspection fees and regulatory processes for import permits. Figure 2 indicates that TSEs account for 22 per cent of animal health concerns raised in 2008, while issues related to foot and mouth disease and avian influenza each account, respectively, for 22 and 45 per cent. The remaining 11 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 – 2008



	Animal Health	Food Safety	Plant Health	Other
Total	10	10	6	3
New	4	7	3	2

FIGURE 2: TRADE CONCERNS RELATED TO ANIMAL HEALTH & ZOONOSES – 2008

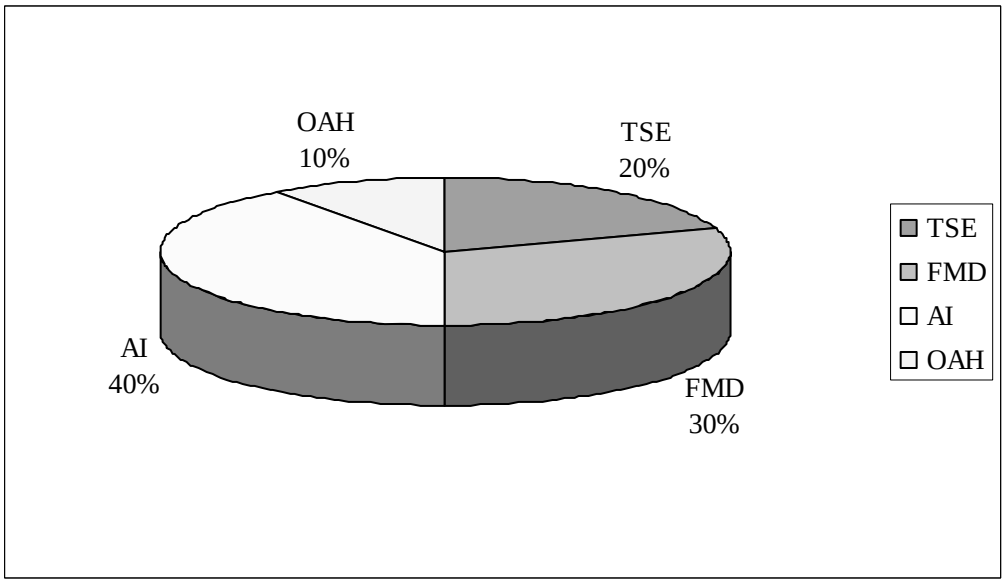
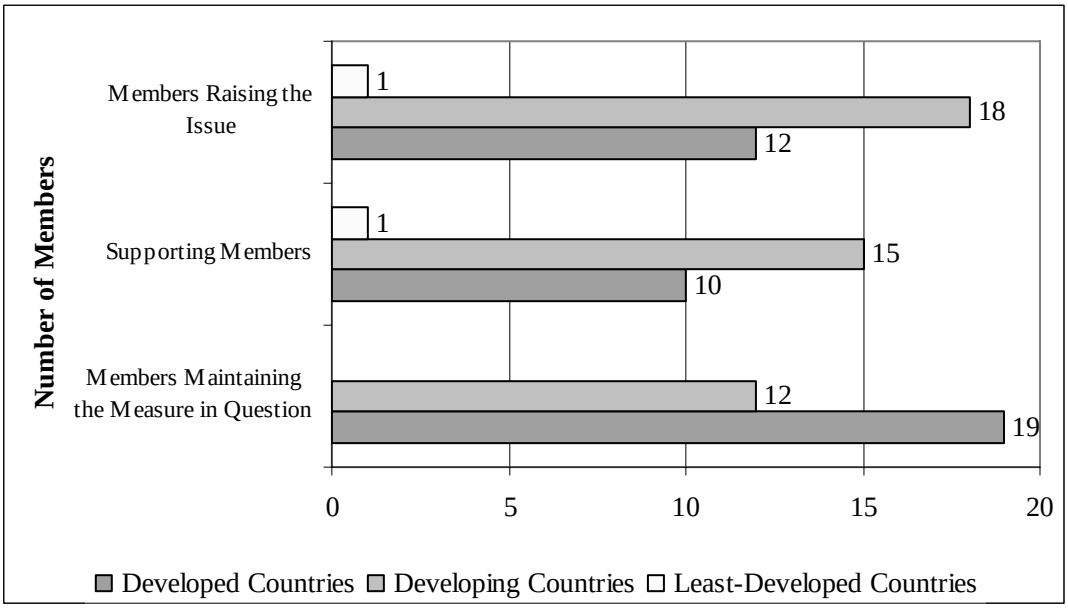


FIGURE 3: PARTICIPATION OF MEMBERS – 2008



Of the 29 trade concerns discussed in 2008, in 12 cases a developed country Member has raised the issue, compared to 18 cases for developing country Members and one for a least-developed country Member. 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 10 cases and developing country Members have supported another Member in 15 cases. One least-developed country Member has supported a trade concern. In 12 cases, the measure at issue was maintained by a developing country Member, and in 19 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 two trade concerns were reported solved in 2008 and in two cases, the Committee was informed that a partial solution had been found. For the remaining 24 cases, no solution was reported.

FIGURE 4: SOLVED TRADE CONCERNS - 2008

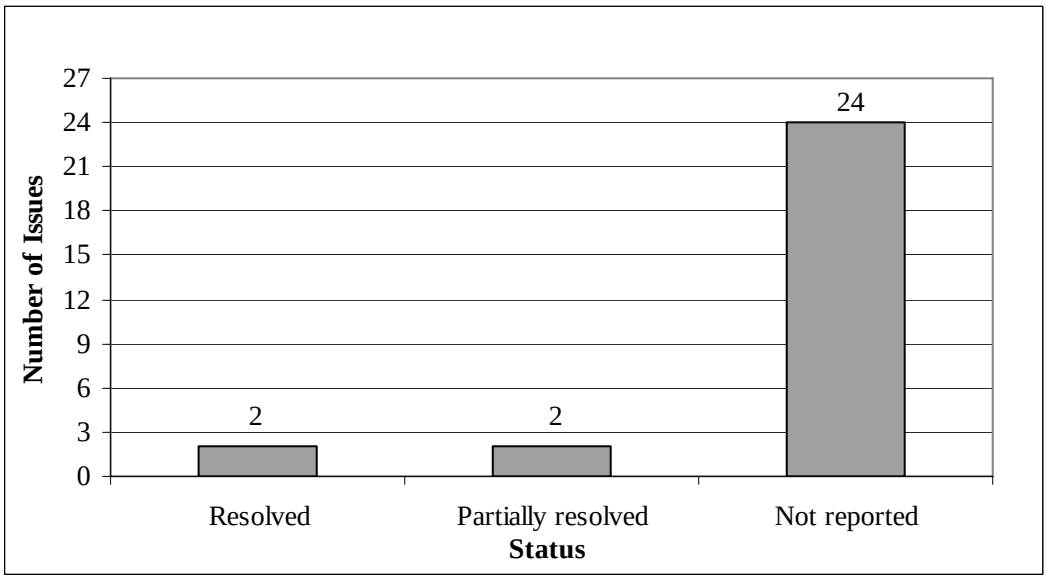


Table 1 – Issues Raised for the First Time in 2008

Item Number	Member(s) Maintaining the Measure	Title	Status[a]
262	Egypt	Restrictions on heat-treated products in relation to avian influenza	NR
263	Mexico	Import restrictions on cooked and frozen meat	NR
264	European Communities	Maximum residue levels for Ethephon in pineapple	NR
265	United States	Regulatory process economic analysis requirement	NR
266	Malaysia	Price list for inspections	NR
267	Japan	Pesticide maximum residue level (MRL) enforcement system	NR
268	United States	Import restrictions on EC dairy products	NR
269	United States	Restrictions on apples	NR
270	Mexico	Import restrictions on rice	PR
271	Mexico	Restrictions on imports of swine meat	NR
272	European Communities	Rapid Alert System regarding mango imports	NR
273	Oman, Certain Members	Health certificate ratification by national embassies	NR
274	Republic of Korea	Livestock Epidemic Prevention Act	NR
275	Separate Customs Territory of Taiwan, Penghu, Kinmen And Matsu (Chinese Taipei)	Maximum level for Ractopamine	NR
276	European Communities	Maximum residue levels for pesticides in cacao	NR
277	Canada, Mexico, United States	NAPPO draft standard for Regulating the Movement of Ships and Cargoes Aboard Those Ships from Areas Infested with the Asian Gypsy Moth	NR

a NR = Not Reported, P = Partially resolved, R = Resolved

Table 2 – Other Items Considered During 2008

Item Number	Member(s) Maintaining the Measure	Title	Status[a]
153	United States	Restrictions on imports of Chinese potted plants in growing medium	NR
185	India	Restrictions due to avian influenza	NR
206	Greece, European Communities	Inspection and testing procedures for imported wheat	NR
222	Japan	Import suspension of heat-processed straw and forage for feed	R
229	Canada	Import restrictions on Enoki mushrooms from Chinese Taipei	R
238	European Communities	Application and modification of the EC Regulation on Novel Foods	NR
241	United States	Import restrictions on wooden Christmas trees	NR
242	European Communities	Restrictions on US poultry exports	NR
252	El Salvador	Zero tolerance for salmonella in poultry and eggs	NR
254	El Salvador	Animal health requirements for poultry meat	NR
256	European Communities	Import restrictions on cooked poultry products from China	PR
257	United States	Import restrictions on cooked poultry products from China	NR
193	Certain Members	General import restrictions due to BSE	PR

a NR = Not Reported, P = Partially resolved, R = Resolved

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CANADA

CONCERNS RELATED TO MEASURES MAINTAINED BY CANADA

Plant Health

229. Import restrictions on Enoki mushrooms from Chinese Taipei

Raised by:	Chinese Taipei
Supported by:	
Dates raised:	October 2005 (G/SPS/R/39, paras. 36-38), February 2006 (G/SPS/R/39, paras. 36-38), April 2008 (G/SPS/R/49, paras. 59-60)
Relevant document(s):	Raised orally
Solution:	
Status:	Resolved
Date reported as resolved:	1 January 2007

1. In February 2006, Chinese Taipei noted that in January 2005 Canada had banned imports of Enoki mushrooms with trace amounts of growing medium. Canada required that all growing medium be removed by cutting off the stalk of the mushroom, but this significantly reduced the shelf-life of the mushroom. In March 2005, Canada had justified this new measure by explaining that the growing medium used for Enoki mushroom cultivation could be a pathway for the introduction of quarantine pests designated by the Canadian Food Inspection Agency, such as sudden oak death or the golden nematode. These quarantine pests did not exist in Chinese Taipei. Furthermore, Enoki mushrooms were produced in Chinese Taipei under soil-free conditions. Chinese Taipei considered that Canada's restrictions were more trade restrictive than necessary and urged Canada to lift its import ban on Enoki mushrooms.

2. Canada clarified that, historically, Chinese Taipei's mushrooms were free from growing medium and had been imported into Canada without restriction. In 2004, shipments of Enoki mushrooms accompanied by a significant amount of growing material had been intercepted. Consistent with the provisions of the IPPC, Canada had provided Chinese Taipei's officials with several official notifications of non-compliance, including a written explanation of the scientific rationale for prohibiting the entry of Enoki mushrooms accompanied by growing medium. Canada was waiting for scientific information on the type of pests that might be carried by the medium from Chinese Taipei in order to conclude a risk assessment. The current science-based requirements would remain in place until Canada had assurance that the growing medium would not carry plant pest risks to Canada.

3. In April 2008, Chinese Taipei reported that the issue of Canada's restrictions on the importation of Enoki mushrooms had been resolved. Since this issue was first raised, there had been constructive technical dialogue on several occasions. Scientific evidence and information on pest risk assessment had been provided, and Canada had undertaken on-site inspections. Consequently Canada had lifted its ban with effect from January 2007.

4. Canada confirmed that this issue had been resolved due to a close collaborative working relationship between technical officials. Following the visit of Canadian officials to Chinese Taipei, import permits had been issued during 2007 and Enoki mushrooms were now being imported into Canada.

277. NAPPO draft standard for Regulating the Movement of Ships and Cargoes Aboard Those Ships from Areas Infested with the Asian Gypsy Moth

Raised by:	China
Supported by:	Indonesia, Japan, Republic of Korea
Dates raised:	October 2008 (G/SPS/R/53, paras. 112-120)
Relevant document(s):	G/SPS/GEN/880
Solution:	
Status:	Not reported
Date reported as resolved:	

5. In October 2008, China raised concerns relating to a draft regional standard of the North American Plant Protection Organization (NAPPO) entitled "Guidelines for Regulating the Movement of Ships and Cargoes Aboard those Ships from Areas Infested with the Asian Gypsy Moth". This standard would require NAPPO members (Canada, Mexico and the United States) to impose strict phytosanitary measures on ships and cargoes from Russia, Korea, Japan, Mongolia and China. More detailed information was presented in G/SPS/GEN/880.

6. China had the following concerns regarding the draft standard: (1) if passed and implemented, it would have serious impacts on international trade; (2) it was inconsistent with Articles 2.2 and 5.6 of the SPS Agreement; and (3) it had ambiguities regarding the technical application of the measure in different NAPPO countries and in different climatic conditions. China urged NAPPO members to delay the implementation of the standard until it was recognized by relevant organizations including the IPPC.

7. Indonesia Japan and Korea indicated that they shared the concerns raised by China regarding the NAPPO draft standard.

8. The United States reported that the NAPPO standard pertaining to inspection and certification requirements related to the Asian Gypsy Moth was still in a draft form, and more changes could be made based on comments submitted by concerned countries. China had declined an invitation to participate in a meeting held in October 2008 to allow trading partners to present their concerns regarding the standard. A harmonized standard among the three NAPPO members would allow ships to enter any port in a NAPPO country after being approved by the first port of call. Finally, the United States invited Members with concerns to engage in discussions with NAPPO members regarding this issue.

9. Canada supported the United States and stated that previous incursions of the Asian Gypsy Moth had caused serious and costly problems for Canada. Mexico also supported the interventions made by the United States and Canada.

10. China stated that technical comments had already been sent to the NAPPO secretariat and hoped that further meetings could be held between NAPPO members and the concerned countries.

11. The European Communities reported that it had not taken new measures on the Asian Gypsy Moth, but it remained vigilant to any potential risk. There were parallels between this issue and ISPM 15 on wood packaging material that had previously been extensively discussed in the Committee. The European Communities hoped that similar solutions to the Asian Gypsy Moth problem could also be found.

12. Norway expressed interest in this issue and its impact on Norway's exports.

13. Mali asked if there were quarantine measures against the Asian Gypsy Moth and whether the pest existed in the NAPPO countries. The United States clarified that this pest was not present in NAPPO countries and that it was very invasive. Based on this information, Mali agreed that NAPPO countries should take the necessary measures to prevent the entry of Asian Gypsy Moth into their countries.

EGYPT

CONCERNS RELATED TO MEASURES MAINTAINED BY EGYPT

Animal Health

262. Restrictions on heat-treated products in relation to avian influenza

Raised by:	European Communities
Supported by:	
Dates raised:	April 2008 (G/SPS/R/49, paras. 17-18)
Relevant document(s):	G/SPS/1 (para. 3)
Solution:	
Status:	Not reported
Date reported as resolved:	

14. The European Communities noted that it had held bilateral negotiations for some time with regard to Egypt's import restrictions on heat-treated poultry products. Egypt permitted imports only from countries free of avian influenza, which was not in line with the OIE standards. This measure was disproportionate to the risk. The European Communities hoped that its good relationship with the Egyptian authorities, which had permitted the resolution of many concerns in the past, would enable a rapid resolution to this problem. The European Communities formally requested that Egypt review its import restrictions and bring them in line with the SPS Agreement.

15. Egypt recalled that the Working Procedures adopted by the SPS Committee (G/SPS/1, paragraph 3) indicated that relevant Members should be informed in advance of a meeting of the intention to raise an issue which concerned that Member, which had not been done in this case. Egypt recalled that it had previously experienced an outbreak of avian influenza, and was making all efforts to prevent a re-introduction of the disease. During recent bilateral technical consultations the European Communities had provided information, including on treatment methods, that was required in order for Egypt to undertake a risk assessment. The risk assessment was under way, and the comments of the European Communities would be taken into account.

EL SALVADOR

CONCERNS RELATED TO MEASURES MAINTAINED BY EL SALVADOR

Food safety

252. Zero tolerance for salmonella in poultry and eggs

Raised by:	United States
Supported by:	
Dates raised:	June 2007 (G/SPS/R/45, paras. 17-18), October 2007 (G/SPS/R/46, paras. 33-34), April 2008 (G/SPS/R/49, paras. 46-47)
Relevant document(s):	G/SPS/N/SLV/21
Solution:	
Status:	Not reported
Date reported as resolved:	

16. In June 2007, the United States raised concerns about El Salvador's zero tolerance for Salmonella in poultry and eggs, and the required certificate attestations. This requirement did not have a scientific justification, and also raised some concerns regarding national treatment. El Salvador had not as yet provided information requested by the United States regarding the prevalence of Salmonella in poultry and eggs in El Salvador, nor on domestic testing for Salmonella. Despite bilateral discussions of the problem, no resolution had been reached.

17. El Salvador stressed its willingness to continue to seek a resolution of this problem bilaterally. The United States was encouraged to submit their request and questions in writing, for consideration by the authorities.

18. In October 2007, the United States reported that El Salvador had agreed to visit the United States for discussions and site visits related to this measure. The United States looked forward to providing the Committee with a report from El Salvador's visit at a future meeting.

19. El Salvador clarified that the measure referred to a standard that El Salvador notified in 1999 as G/SPS/N/SLV/21. In the past year, El Salvador had held bilateral meetings with US technical experts and made progress in the sense that restrictions on certain products such as day-old chicks and fertile eggs had been lifted. El Salvador had extended the certification for those products that were free of Salmonella. There were no prohibitions on pre-cooked products because the heat de-activated the virus. El Salvador was willing to continue to meet with the technical exports in order to come up with solutions which would allow the two countries to have free-flowing trade.

20. In April 2008, the United States reported that following an inspection visit in February, the authorities of both countries were now working on the language for export certificates for poultry meat and table eggs. The draft documents had been provided to El Salvador, and the United States hoped that this issue would soon be resolved in accordance with the SPS Agreement and international standards.

21. El Salvador confirmed that consultations had taken place, with a positive outcome.

Animal Health

254. Animal health requirements for poultry meat

Raised by:	United States
Supported by:	
Dates raised:	June 2007 (G/SPS/R/45, paras. 24-25), April 2008 (G/SPS/R/49, paras. 46-47)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

22. In June 2007, the United States expressed concern that El Salvador required that imported uncooked poultry meat be sourced from farms free of a number of diseases. This requirement exceeded the OIE standards, as many of the diseases identified were cosmopolitan in nature and not known to be transmissible via poultry meat. El Salvador's measure was therefore without scientific justification.

23. El Salvador observed that there had been bilateral meetings with US officials, at which some protocols had been agreed for certain products. The United States was invited to provide its requests and comments in writing.

24. In April 2008, the United States reported that following an inspection visit in February, the authorities of both countries were now working on the language for export certificates for poultry meat and table eggs. The draft documents had been provided to El Salvador, and the United States hoped that this issue would soon be resolved in accordance with the SPS Agreement and international standards.

25. El Salvador confirmed that consultations had taken place, with a positive outcome.

EUROPEAN COMMUNITIES

CONCERNS RELATED TO MEASURES MAINTAINED BY EUROPEAN COMMUNITIES

Food safety

206. Inspection and testing procedures for imported wheat – Maintained by Greece

Raised by:	Canada
Supported by:	
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 32-33), October 2005 (G/SPS/R/39, paras. 222-223), February 2006 (G/SPS/R/39, paras. 222-223), October 2008 (G/SPS/R/53, para. 161)

Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

26. In March 2005, Canada reported that Greece had introduced new inspection and testing requirements for imports of grains from third countries in August 2004 that exceeded existing EC requirements by requiring the testing of 100% of shipments. Greece had provided no scientific rationale to justify the introduction of these measures and Canada considered the Greek measures to be inconsistent with the SPS Agreement. Canada's concerns had already been unsuccessfully expressed on numerous occasions to both Greek and EC officials, including at technical level.

27. The European Communities stated that the Commission had been in extensive bilateral contacts with both Canadian and Greek authorities in an effort to find a solution. Greece was in the process of adjusting three major aspects of the ministerial decision with the aim of bringing its measure into full compliance with the SPS Agreement. In particular, Greek authorities were considering the repeal of the provisions establishing additional quality criteria, the re-establishment of the normal EC requirements with regards to testing, sampling and inspection procedures and removing any provisions that might be viewed as discriminatory against imported products.

28. In February 2006, Canada stated that although the Greek authorities had made some useful amendments in late March 2005, the issue had recently deteriorated. Canada noted in particular the frequency of inspections, the lengthy detention periods of up to two months, and Greece's requirement for a 1.5% limit on fusarian damaged kernels in grain shipment. In addition, in December 2005, Greece had required that 100% of a shipment be tested for the presence of GM wheat, regardless of the fact that no validated test for the presence of GM wheat existed. Canada had unsuccessfully offered to accompany each shipment with a letter certifying the absence of registered GM wheat in Canada. These requirements were discriminatory as they only applied to cereals originating outside the European Communities.

29. In October 2008, Canada again raised the issue of Greece's excessive inspection and testing requirements of imported cereals, including Canadian wheat exports, for the presence of genetically modified organisms even though genetically modified wheat is not commercially produced in Canada. The European Communities stated that although there was harmonization among the EC member States, there was a degree of difference in the testing regimes of different countries. The European Communities would make every effort to resolve this issue.

238. Application and modification of the EC Regulation on Novel Foods

Raised by:	Colombia, Ecuador, Peru
Supported by:	Argentina, Bolivia, Brazil, Chile, Costa Rica, Cuba, Benin, El Salvador, Honduras, India, Mexico, Paraguay, Philippines, Uruguay, Bolivarian Republic of Venezuela
Dates raised:	March 2006 (G/SPS/R/40, paras. 21-29), June 2006 (G/SPS/R/42, paras. 35-37), October 2006 (G/SPS/R/43, paras.140-143), February 2007 (G/SPS/R/44, para. 64), April 2008 (G/SPS/R/49, paras. 48-52), October 2008 (G/SPS/R/53, paras. 19-23)

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:	
Status:	Not reported
Date reported as resolved:	

30. 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.

31. 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.

32. 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.

33. 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.

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

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

(ii) Greater transparency and clarity in the procedures and definition, giving credit to a safe consumption history of food in the country of origin;

(iii) Requirements, tests, and procedures in proportion with the nature of the foods concerned and the risks they could imply for consumers; and

(iv) All exotic traditional products to remain in the public domain and no private entity to be granted privileged access to the European market.

35. Ecuador reported that the amendment would also affect the trade potential of traditional and exotic food from its country. In light of Ecuador's great biodiversity, over the last decade international organizations like UNCTAD had been promoting the development of new export products ("Bio-Comercio"). In Ecuador also the export of traditional and exotic foods had major socio-economic impacts and related closely to efforts to overcome rural poverty. Ecuador invited the

European Communities to consider carefully Colombia's recommendations regarding the amendment. The amendment of the regulation and its impacts were of importance for many developing countries.

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

37. 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 and expressed their interest in the topic and shared the concerns of Colombia, Ecuador and Peru.

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

39. 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).

40. 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.

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

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

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

44. Bolivia, Brazil and the Philippines shared the concerns of Peru, Ecuador and Columbia. The Philippines highlighted the fact that the regulation could become an unjustified non-tariff barrier to the EC market in view of the unclear technical distinction between these products and other products. The Philippines expressed hope that progress would be made on the issue and a mutual solution found as soon as possible.

45. The European Communities reminded the Committee that the issue had been discussed in the SPS Committee on previous occasions and there had been various exchanges of communications between the Members concerned. The European Communities acknowledged the problem with traditional products, which were not in the EC market prior to 1997 and noted that the regulation was not discriminatory as EC producers had to undergo similar risk evaluations. Nonetheless, the European Communities imported an enormous volume of foods and vegetables. They reiterated the request that the Members concerned submit data on the volume of trade and risk assessments carried out in other developed countries. The European Communities indicated that the EC Commission was

putting forward a new proposal that addressed the genuine concerns of Members. A public consultation had been held on the matter and the European Communities appreciated the contributions from the concerned Members.

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

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

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

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

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

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

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

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

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

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

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

242. Restrictions on US poultry exports

Raised by:	United States
Supported by:	
Dates raised:	October 2006 (G/SPS/R/43, paras. 28-29), February 2007 (G/SPS/R/44, paras. 32-33), June 2008 (G/SPS/R/51, paras. 27-28)
Relevant document(s):	Raised orally
Solution:	Given the high hygienic standards in the United States, if the use of AMTs were eliminated in US poultry production, the European Communities could most likely resume imports of US poultry products.
Status:	Not reported
Date reported as resolved:	

57. 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.

58. 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 the 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.

59. In February 2007, the United States reported that despite a positive risk assessment by the European Food Safety Agency (EFSA), the European Commission had not yet authorized the imports from the United States.

60. The European Communities responded that the EC market was open to imports of poultry meat, and substantial quantities were imported from Brazil and Thailand. The European Communities was also open for US exports, but had difficulties with the US insistence on the use of anti-microbial treatments (AMTs). The US poultry industry worked to high standards, but refused to export poultry that had not been treated with AMTs. One solution would be for the United States to change its system and export without AMTs, which it refused to do. The other solution was for the European Communities to adapt its system, which was very sensitive because these products were banned for use in Europe. The use of AMTs was very controversial with EC member States and consumers, who considered these products unnecessary if appropriate hygiene was used from farm to table. The European Communities had taken constructive steps and adopted framework legislation to allow for possible authorization of AMTs. EFSA had evaluated their safety, and discussions were underway with member States to develop implementing legislation to allow their use.

61. In June 2008, the United States recalled that its poultry exports faced restricted access to the EC market since 1997, based on a ban on the use of Pathogen Reduction Treatments (PRTs). Over the past 11 years, EFSA and other scientific bodies had concluded that the consumption of poultry washed with certain PRTs did not pose any risk to public health. Although the European Commission had proposed legislation permitting the use of PRTs in January 2006, the ban on imported poultry had not been removed.

62. The European Communities observed that the EC market was open to trade and it imported large volumes of poultry and poultry products from a number countries, including Brazil and Thailand. The European Communities banned the use of AMT in poultry because these could be abused in order to compensate for poor hygienic conditions throughout the production chain. Given

the high hygienic standards in the United States, if the use of AMTs were eliminated in US poultry production, the European Communities could most likely resume imports of US poultry products.

264. Maximum residue levels for Ethephon in pineapple

Raised by:	Ecuador
Supported by:	Costa Rica
Dates raised:	April 2008 (G/SPS/R/49, paras. 21-23)
Relevant document(s):	G/SPS/GEN/841/Rev.1
Solution:	
Status:	Not reported
Date reported as resolved:	

63. In April 2008, Ecuador noted its concern about possible modification of the EC maximum residue levels (MRLs) for Ethephon, particularly in pineapple. The European Communities was currently using the Codex standards, but a re-evaluation of these MRLs by the European Food Safety Authority (EFSA) had resulted in a lowering of the Acceptable Daily Intake (ADI) levels. EFSA was now reviewing MRLs in pineapple, and proposing that these be reduced from 2 mg to 0.05, which was the limit of detection. Ecuador considered that the risk assessment was not based on adequate scientific evidence nor on the Codex standard. This change could have serious socio-economic consequences.

64. Costa Rica noted that it was also analyzing the effect of this new limit on Costa Rica's exports, and asked to be informed of further discussions on this matter.

65. The European Communities noted that producers and the plant protection industry in the European Communities shared the concerns of Ecuador and Costa Rica. They had expressed concerns that the reduction in MRLs was excessive and not sufficiently science-based, which showed that there was no protectionist intent. However, in the interest of food safety it was sometimes necessary to set limits that created problems for producers, and Ethephon was an example of this. EFSA had carried out an extremely thorough evaluation of the substance, in particular in light of its importance, which had led to the recommendation to set more rigorous limits. The EC authorities were in correspondence with both Ecuador and Costa Rica, and invited them to present their scientific evidence that the direction taken by the European Communities was wrong. Such evidence would be taken into account in other cases as well; in the past the European Communities had accepted such requests to review its risk assessments. The European Communities would explore every opportunity to be flexible in how this new MRL was applied to imports.

272. Rapid Alert System regarding mango imports

Raised by:	Senegal
Supported by:	
Dates raised:	June 2008 (G/SPS/R/51, para. 156)
Relevant document(s):	Raised orally

Solution:	
Status:	Not reported
Date reported as resolved:	

66. Senegal raised concerns regarding mango exports to the European Communities. In 2007, the rapid alert system had warned that the limit for a post-harvest product had been exceeded. In fact, this information had been based on a testing error. Senegal had asked for it to be corrected in the rapid alert system, but had received no response. Only one exporter had been concerned, but all mango exports from Senegal were being affected. Senegal asked the European Communities to lift the sanctions.

276. Maximum residue levels for pesticides in cacao

Raised by:	Ecuador
Supported by:	
Dates raised:	October 2008 (G/SPS/R/53, paras. 13-14)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

67. In October 2008, Ecuador reported that it was concerned regarding the MRLs set for the limited number of pesticides used in cacao production. These levels were difficult to fulfil and could result in the exclusion of Ecuadorian cacao from the EC market. For pesticides not explicitly identified in the EC Regulation, MRLs were set at 0.01 mg per kg. Ecuador requested the European Communities to assess the possibility of establishing a limit of 0.1 mg per kg for substances such as Diuron, Melathion, Difenoconozol and Tribufos, which were not explicitly identified within the regulation.

68. The European Communities recalled that Members had been fully informed of the new EC framework regarding residues of pesticides in plants. Third countries could also request that an import tolerance be established for any plant protection products that had not been approved for use in the European Communities. It was suggested that Ecuador establish contacts with the relevant officials in importing countries of the European Communities to explore the possibilities of having such import tolerances established.

Animal Health

256. Import restrictions on cooked poultry products from China

Raised by:	China
Supported by:	

Dates raised:	October 2007 (G/SPS/R/46, paras. 9-10), April 2008 (G/SPS/R/49, paras. 41-45), October 2008 (G/SPS/R/53, paras. 40-41)
Relevant document(s):	Raised orally
Solution:	Removal of import restrictions on cooked poultry products from Shandong Province only
Status:	Partially resolved
Date reported as resolved:	8 October 2008

69. In October 2007, China raised the concern that since July 2004, the European Communities had suspended the importation of cooked poultry meat from China because of the presence of highly pathogenic avian influenza in China. The OIE guidelines on AI explicitly stated that heat treatment de-activated the virus and that restrictive measures associated with AI should not be applied to cooked poultry meat. The EC Health Commissioner had agreed to lift the prohibition of cooked poultry meat from China into the European Communities, and China requested that this be done as soon as possible in accordance with OIE guidelines and the SPS Agreement.

70. The European Communities responded that the prohibition in question had been in place since January 2002 and related not only to avian influenza but also to certain hygiene concerns. These issues had now been resolved and the ban should be lifted within a matter of weeks.

71. In April 2008, China noted that since July 2002, the European Communities had prohibited imports of cooked poultry due to hygienic concerns and AI. China had taken steps to address these concerns and to facilitate a risk evaluation. China had thought the issue was now resolved, and that the ban should have been lifted. This had not yet occurred, but China hoped that trade could soon take place.

72. The European Communities observed that trade could take place safely for both cooked and fresh poultry meat, and the European Communities imported large quantities of both from a range of countries, including countries where AI was endemic in the bird population. In the case of China, discussions had taken place regarding the conditions under which trade could take place. An agreement had been reached on these conditions, and the European Communities had also expected trade to resume. Unfortunately, there had been an obstacle. China had explicitly agreed to send virus isolates to EC reference labs; but these had not yet been received. Until these had been provided, the European Communities could not take the final administrative measures to allow trade to resume.

73. China noted that it was possible that the isolates had already been provided. However, China questioned the rationale for this request, as cooked poultry presented a very low risk for transmission of the AI virus.

74. The OIE clarified that there were two issues under consideration. One was the need to encourage transparency and disease reporting, including sharing of information on isolates in order to characterize strains of the virus. The second aspect was the identification of which measures should be applied to trade. There was now a lot of information on the risks of highly pathogenic AI and on the lack of risk associated with low pathogenic strains, as well as information on effective means for inactivation of the virus. The Terrestrial Animal Health Code was also clear on the lack of risk from pigs, hence no trade measures were warranted. The OIE remained concerned that Members were not applying OIE recommendations. The OIE invited Members to bring forward new information that might warrant a revision of the recommendations. It was critical that trade measures be proportionate to the risks, and that Members not apply unjustified measures. This would discourage reporting of disease outbreaks and lead to increased risks to human and animal health. The representative of the

OIE recalled that the OIE could help with the resolution of technical disputes among Members if so requested.

75. The European Communities responded to China that, as indicated by the OIE, it was in the interest of transparency to have virus isolates. The European Communities required the same data for outbreaks in EC member States, to improve scientific knowledge of the disease.

76. In October 2008, China thanked the European Communities for the removal of import restrictions on cooked poultry products from Shandong Province of China. However, this treatment was limited only to Shandong Province. China requested that the European Communities also remove the ban on other poultry production areas such as Jilin Province. A delegation of FAO had visited Jilin Province and reported their satisfaction with local animal health conditions.

77. The European Communities expressed its intention to remove import bans on other provinces in China after conducting the necessary evaluations.

INDIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Animal Health

185. Restrictions due to avian influenza

Raised by:	European Communities
Supported by:	Australia, Canada, Switzerland, United States
Dates raised:	March 2004 (G/SPS/R/33, paras. 18-20), June 2004 (G/SPS/R/34, paras. 42-43), October 2004 (G/SPS/R/35, paras. 59-60), June 2007 (G/SPS/R/45, paras. 21-23), October 2007 (G/SPS/R/46, paras. 29-32), April 2008 (G/SPS/R/49, paras. 33-38), June 2008 (G/SPS/R/51, paras. 31-35), October 2008 (G/SPS/R/53, paras. 29-34)
Relevant document(s):	G/SPS/N/IND/13/Add.1, G/SPS/N/IND/14, G/SPS/N/IND/46/Add.3 and Add.4
Solution:	
Status:	Not reported
Date reported as resolved:	

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

79. India explained that restrictions on poultry imports were temporary measures to address the emerging threat of introduction of highly pathogenic avian influenza. The measures were intended to protect farmers for whom poultry production was an essential source of income. Delays in the reporting of outbreaks increased the risk of the virus spreading into other countries. In addition,

infected poultry did not always exhibit clinical signs of the disease. Once introduced into the country, the disease would be impossible to control. India was taking all measures necessary to gather information on efforts to contain the disease globally and welcomed information from exporting Members who were free of the disease.

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

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

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

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

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

permitted from any country, regardless of its avian influenza status. Because many wild birds visited India, this was a vector of concern. With regard to pet food, India had revised its health protocol notified in June 2007, and would take into account the comments made on this matter.

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

86. The European Communities noted that it had problems similar to those mentioned by the United States. India failed to recognize the difference between high and low pathogenic influenza as well as the AI-related differences between wild birds and domestic animals. The European Communities encouraged India to follow the recommendations from the OIE.

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

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

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

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

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

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

93. India noted that AI continued to spread, and that it had serious human health implications with hundreds of persons already affected. India had previously had an outbreak, and despite its efforts to eradicate the disease, new outbreaks had occurred. Therefore India was extremely cautious to safeguard animal and human health, especially as India had widespread, small family poultry businesses. India was not permitting imports from affected countries. India viewed low and high pathogenic strains of AI with equal concern, regardless of whether in poultry or wild birds. LPAI presented a high potential risk, as the science showed that the virus was constantly evolving and there was a possibility of LPAI mutating into a highly pathogenic strain. With respect to the OIE guidelines, India had voted against the resolution in the last annual session which proposed that LPAI was not a concern for international trade. India was not the only country taking such measures, and Egypt had apparently imposed similar requirements. Pigs were potential hosts of both the AI and human viruses, and could serve as vessels where the viruses could mix, therefore India was also prohibiting swine and pork products from AI-affected countries. India was visited by wild birds, therefore the risk of transmission of AI through this means could not be ignored. India had recently reviewed and modified its measures on pathogen-free eggs, and pet food, and agreed to provide information to the European Communities shortly. The concerns raised by other Members would be communicated to technical experts in capital. India assured all Members that it would abide by its WTO obligations.

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

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

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

97. The United States supported the concerns raised, observing that India's measure had been introduced and maintained without scientific evidence or risk assessment. India's argument that LPAI had the potential to mutate into the highly pathogenic form, and that virus re-assortment could occur in swine, had Switzerland supported the concerns raised and requested India to revisit its measure in order to comply with OIE recommendations.

98. India reiterated that it did not allow the importation of poultry and pork products, including processed meats, from areas where outbreaks of avian influenza had been reported. India was equally concerned about low and highly pathogenic avian influenza, as well as with avian influenza found in wild birds only. A number of scientific studies had shown the possibility of low pathogenic forms of avian influenza mutating into highly pathogenic strains. A report from FAO had also shown that mutation was feasible. An official US web site asserted that low pathogenic forms of avian influenza had the potential to mutate into HPAI. At the OIE General Session in May 2007, India had voted against the resolution that stated that LPAI did not pose a risk to international trade. India remained concerned that the low pathogenic viruses also posed risks to human health. Regarding pigs, scientific evidence showed that pigs could host the virus and were known to be a mixing vessel for some diseases, hence they could infect humans with avian influenza. As new scientific evidence evolved, India had lifted its bans on some products, such as eggs and pet food. Further reviews would be done in the future. India took note of Members' requests for copies of the risk assessment and for the recognition of regionalization, and those concerns would be conveyed to experts in the capital.

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

100. The United States expressed concerns regarding India's extension of its emergency measures prohibiting a wide range of products because of avian influenza. These measures were not based on scientific evidence or on risk assessment. The United States renewed the request to India to provide a

copy of their avian influenza risk assessment. Finally, India was requested to modify its measure to address the concerns expressed by several Members in the Committee.

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

102. India suggested that instead of waiting for the next meeting the experts could meet before then, perhaps through a video conference, which could allow a resolution before the next meeting.

103. India reported that the import restriction of avian influenza related products had been discussed in the OIE, in the SPS Committee, and in various bilateral meetings with countries including the European Communities and the United States. India treated high pathogenic and low pathogenic types of the virus in both poultry or wild birds with equal concern. Also, India did not import pig meat from countries with avian influenza outbreaks. India had been reviewing the policy of avian influenza and its trade implications every six months. This led to the removal of import restrictions on different processed pig products from avian influenza positive countries. India would continue to review its restrictions and keep only those which affected human and animal health. India suggested that the discussion should stay among experts from India and other concerned partners.

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

JAPAN

CONCERNS RELATED TO MEASURES MAINTAINED BY JAPAN

Food safety

267. Pesticide maximum residue level (MRL) enforcement system

Raised by:	United States
Supported by:	China, New Zealand
Dates raised:	June 2008 (G/SPS/R/51, paras. 15-17), October 2008 (G/SPS/R/53, paras. 15-18)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

105. In June 2008, the United States noted that in May 2006, Japan's Ministry of Health, Labour and Welfare (MHLW) imposed a testing and sanctions policy that involved increased testing (30 per cent country-wide) after the occurrence of one MRL violation. If a second violation involving the same pesticide and commodity occurred within one year of the first, a 100 per cent test-and-hold policy was enforced on all exports of that commodity from that country. The United States believed

that the sanctions under inspection and control programmes should be limited to the violating supplier as long as there was no indication that a country-wide problem existed. The United States considered that this would be the least trade restrictive measure and the most appropriate policy. This was also the policy applied by the United States itself.

106. China supported the concerns raised by the United States and invited Japan to provide scientific justification for its measure, in order to comply with the SPS Agreement.

107. Japan stated that the MRLs for agricultural chemicals in food were developed based on scientific assessments, and took into account the MRLs established by Codex and by other countries. Before adopting a new MRL, Japan notified its proposal to the WTO and considered any comments from Members, as appropriate. The MRLs applied equally to domestic and imported products. Whenever non-compliance with an MRL was found in imported products, Japan strengthened inspections of agricultural chemical residues. The degree, frequency, or extent of enhanced inspection was determined by the circumstances. Each violation was handled on a case-by-case basis, but always conducted in a rational and reasonable manner, for instance, by limiting the enhanced inspections to the violating exporter only.

108. In October 2008, the United States again raised its concerns about Japan's enforcement system for MRLs. In particular, there was no reason for Japan to employ country-wide sanctions where there was no indication of a country-wide problem. In cases of individual company violations, sanctions should be applied at the individual company level.

109. New Zealand noted that its exports had been subject to testing by Japan. New Zealand asked for further clarification regarding the reasons behind testing products, especially asparagus products as these were normally frozen.

110. China shared the US concerns regarding Japan's testing regime.

111. Japan responded that in order to enforce their MRLs, Japan conducted monitoring inspections of agricultural chemical residues in imported food. These controls were strengthened if imported products did not comply with the established MRLs. Multiple violations had been detected on imported products from the United States, giving rise to increased monitoring.

Animal Health

222. 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), June 2007 (G/SPS/R/45, paras. 46-47), April 2008 (G/SPS/R/49, para. 61)
Relevant document(s):	Raised orally
Solution:	Imports from some enterprises permitted
Status:	Resolved
Date reported as resolved:	1 April 2008

112. 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.

113. 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.

114. 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.

115. 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 an increase in the number of areas of foot and mouth disease. Japan had not received sufficient data from 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.

116. In June 2007, China reported that much progress had been made towards the resolution of this concern through bilateral meetings. China had invited three delegations from Japan for inspection, and had provided all relevant and requested information. Six Chinese enterprises had been approved by Japan to export straw and forage. China hoped that the dozen enterprises still waiting for approval from Japan would soon be approved.

117. Japan noted that there were two factors that had to be considered: the control measures and the compliance with control measures. Japanese authorities were particularly concerned with how to ensure compliance when there had been a history of poor compliance. On the basis of on-site visits, Japan had scheduled expert consultations which had resulted in some lifting of the suspensions. Japan hoped to be able to lift the suspension soon for other Chinese exporters.

118. In April 2008, China reported that following the provision of information requested by Japan, Japan had subsequently lifted the ban on imports of heat-processed straw and forage for feed from China. Japan confirmed that a solution had been reached on this matter.

REPUBLIC OF KOREA

CONCERNS RELATED TO MEASURES MAINTAINED BY KOREA

Animal Health

274. Livestock Epidemic Prevention Act

Raised by:	Canada
Supported by:	
Dates raised:	October 2008 (G/SPS/R/53, paras. 6-7)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

119. In October 2008, Canada raised concerns that Korea's Livestock Epidemic Prevention Act violated the tenets of animal health and food safety principles as its requirements were not based on science. These amendments were not consistent with WTO obligations and did not take into consideration the provisions of the BSE chapter of the OIE Terrestrial Animal Health Code. Korea continued to restrict the import of beef products from countries with any previous experience of BSE. Canada requested Korea to amend its regulations to comply with the SPS Agreement.

120. Korea maintained that the Act was consistent with the SPS Agreement, and that Korea had conducted the necessary risk assessments.

MALAYSIA

CONCERNS RELATED TO MEASURES MAINTAINED BY MALAYSIA

Other concerns

266. Price list for inspections

Raised by:	Brazil
Supported by:	Australia, New Zealand, Uruguay, European Communities
Dates raised:	April 2008 (G/SPS/R/49, paras. 26-31)
Relevant document(s):	

Solution:	
Status:	Not reported
Date reported as resolved:	

121. In April 2008, Brazil observed that recently approved Malaysian legislation established inspection fees of US$30,000 per year for each Brazilian establishment, even in the absence of any health violations. Although Malaysia had tried to justify the fees as necessary to cover its costs, it was apparent that these fees were not in compliance with the SPS Agreement. According to Annex C, any fees should be equitable compared to those charged to domestic industries, and no higher than the actual costs of the service. Malaysia was clearly overcharging exporting countries, and it was not clear whether any fees were imposed on national producers.

122. The European Communities shared the concerns raised by Brazil, as it had experienced similar problems. It was clear that the fees were not proportionate to costs, and that the requirement for annual payment of such fees would discourage exporters. Although it appreciated that Malaysia wanted to cover the costs of its own inspectors when they went to other countries, the European Communities requested Malaysia to revise the fee schedule.

123. Australia also shared the concerns about the trade impact of Malaysia's requirement. It was not clear how this fee schedule had been developed, or why different rates were applied to different trading partners. This could have significant impacts on trade in meats, and Malaysia was requested to explain its current requirements and to consider alternative approaches.

124. New Zealand also shared the concerns expressed, and furthermore noted that although. Malaysia had bilaterally informed New Zealand of these requirement after the fact, it had not submitted an official WTO notification. New Zealand requested Malaysia to delay implementation of this requirement, to notify it to the SPS Committee, allow time for comments and discussions, and to take these into account.

125. Uruguay supported the concerns raised by others, and also was concerned that this measure could create an unwelcome precedent if others followed the same example.

126. Malaysia noted that costs had increased and presented a strain on the national budget. The fees would allow Malaysia to continue inspections without disruption. The measure was not yet in place, and Malaysia was engaging in consultations with exporting countries. The proposed measure had been notified in March 2008, and a comment period was provided.

MEXICO

CONCERNS RELATED TO MEASURES MAINTAINED BY MEXICO

Animal Health

263. Import restrictions on cooked and frozen meat

Raised by:	Brazil
Supported by:	

Dates raised:	April 2008 (G/SPS/R/49, paras. 19-20), June 2008 (G/SPS/R/51, paras. 36-39)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

127. In April 2008, Brazil noted its concerns about Mexico's restrictions on cooked frozen meat from areas free of Foot and Mouth Disease (FMD). According to the OIE Terrestrial Animal Health Code, heat-treatment of meat guaranteed its safety. Therefore, there was no scientific basis for Mexico's decision not to permit meat from Brazil. This decision was also not in line with NAFTA practices, since both the United States and Canada imported this product from Brazil. Brazil requested details from Mexico on the criteria used for the evaluation of processing facilities. This was not the first time that there had been undue delays in Mexico's response to such problems; these had previously occurred in the sending of auditing teams to Brazil. Brazil was concerned with the unpredictable and protectionist practices of Mexico.

128. Mexico recalled that a bilateral exchange had taken place in August 2007, regarding a Memorandum of Understanding between sanitary services to cooperate in certain areas and address trade concerns. A monitoring group had met to discuss bilateral issues, and had agreed on the need for a technical subgroup to meet to discuss this issue, however the subgroup had not yet met. Mexico was now analyzing the detailed information on cooked frozen meat that it had received from Brazil, and would continue to work with Brazil on all bilateral SPS issues.

129. In June 2008, Brazil reiterated concerns about Mexico's requirements on the importation of Brazilian cooked and frozen meat. As recognized in Article 3.6.2.1. of the OIE Terrestrial Code, cooking of meat completely inactivated the FMD virus. In addition, Mexico's ban on Brazilian cooked meat was contrary to the decisions of its NAFTA partners which imported cooked and frozen meat from Brazil. Mexico had sent a communication indicating the need to approve meat processing facilities in order to allow exports. Brazil had therefore requested further details about the criteria for these evaluations. The approval procedure should be done on a sample basis. Furthermore, there had been continuous delays by the Mexican authorities in sending an inspection group to conduct on-site visits. Brazil urged Mexico to apply the SPS Agreement provisions and OIE recommendations, and to eliminate its import restrictions, as cooked and frozen meat did not pose risks of transmitting the FMD virus.

130. Mexico stressed the positive developments in the consultations held with Brazil since the issue was first raised. The Mexican National Service for Agro-food Health, Safety and Quality (SENASICA-SAGARPA) had requested more information about the companies that produced food and canned meat foods, including their official recognition, information about the national programme on toxic residues, and information about compliance with specific official requirements in force in Mexico. Imports could be permitted only after the fulfillment of those requirements. Mexico further raised concerns about Brazil's refusal to import pathogen-free eggs from Mexico. This restriction started in 2005, after the outbreak of low pathogenic avian influenza in the country. Mexico had provided information and requested an on-site evaluation, but no response had been provided by the Brazilian authorities.

131. Brazil contested the linkages between the restrictions on importation of Mexican eggs and the recognition of FMD-free zones in Brazil. Regarding Mexico's complaint on the restriction on eggs,

bilateral technical consultations had been held, and Brazil was waiting to receive the complementary information that it had requested of Mexico.

132. Mexico reported that it was carrying out the necessary analysis on recognition of FMD-free areas in Brazil, but the existent Mexican official requirements needed to be complied with. With respect to exports of eggs, the information requested by Brazil would be provided as soon as possible.

271. Restrictions on imports of swine meat

Raised by:	Brazil
Supported by:	
Dates raised:	June 2008 (G/SPS/R/51, paras. 25-26)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

133. In June 2008, Brazil raised concerns about Mexico's delay in recognizing Brazil's FMD-free areas, and failure to allow importation of Brazilian pig meat. The recognition process had been delayed by unjustifiable requests for additional information, resulting in a lengthy and costly process. Since June 2007, Brazil had requested Mexico to recognize the State of Santa Catarina as an FMD-free area without vaccination, based on OIE's decision at its 75th General Session. However, no response had been given, even though these concerns were raised by Brazil in bilateral consultations. Taking into account the recent decision by the Committee on regionalization, Brazil requested that a working plan containing time-lines and a date for finalizing the recognition process be established.

134. Mexico confirmed that Brazil had presented information to the competent authorities at the Mexico National Service for Agro-food Health, Safety and Quality (SENASICA-SAGARPA). Those authorities were presently conducting technical analyses and Mexico hoped to provide a positive response to Brazil in the near future.

Plant Health

270. Import restrictions on rice

Raised by:	Pakistan
Supported by:	
Dates raised:	June 2008 (G/SPS/R/51, paras. 23-24), October 2008 (G/SPS/R/53, para. 42)
Relevant document(s):	Raised orally
Solution:	Mexico had not yet completed its assessment of plant health risks. The results would be conveyed to Pakistan as soon as it was concluded. Pakistan requested a time-line from Mexico for each step of the pest risk assessment process on plant health.

Status:	Partially resolved
Date reported as resolved:	8 October 2008

135. In June 2008, Pakistan noted that since 2005, Mexico banned the importation of Pakistani rice. Both countries had engaged in bilateral consultations since 2006, but with marginal progress to date. Pakistan was willing to apply mitigation treatments on its rice, if necessary, but no further information had been provided by the Mexican authorities. Pakistan considered that Mexico was failing to respect its obligations under Articles 4 and 5 of the SPS Agreement. Pakistan urged Mexico to eliminate the import restrictions imposed on Pakistani rice, and stressed that Pakistan was ready to respond to any request from Mexico.

136. Mexico observed that it did not agree with the concerns raised by Pakistan related to Articles 4 and 5. Mexico was currently conducting a pest risk analysis in accordance with IPPC's standards, before allowing the importation of rice from Pakistan. In this pest risk analysis, Mexico was assessing all the potential pests, and not only the gorgojo khapra (*Trogoderma granarium*). In addition, in every meeting of the Mexico-Pakistan Commission, Mexico had informed Pakistan about the latest developments of the risk analysis. A memorandum of understanding between both countries acknowledged the need to complete a risk assessment before allowing imports of rice from Pakistan. The results of the pest risk analysis would be conveyed to Pakistan as soon as it was concluded. Mexico reiterated its willingness to bilaterally work with Pakistan on this matter.

137. In October 2008, Mexico reported that the concern raised by Pakistan regarding restriction of rice imports was resolved, however, Mexico had not yet completed its assessment of plant health risks. Pakistan thanked the Government of Mexico for the efforts undertaken to carry out the required pest risk assessment. Pakistan also requested a time-line from Mexico for each step of the pest risk assessment process on plant health.

277. NAPPO draft standard for Regulating the Movement of Ships and Cargoes Aboard Those Ships from Areas Infested with the Asian Gypsy Moth [See Item 277, pages 2-3]

OMAN

CONCERNS RELATED TO MEASURES MAINTAINED BY OMAN

Other concerns

273. Health certificate ratification by national embassies

Raised by:	European Communities
Supported by:	
Dates raised:	April 2008 (G/SPS/R/49, paras. 57-58; G/SPS/N/OMN/22)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

138. In April 2008, the European Communities expressed appreciation to Oman for respecting the transparency provisions and providing this notification. However the requirement being notified, that health certificates required ratification by national embassies, was not just a requirement imposed by Oman or by the Gulf Cooperation Council (GCC) countries. Other Members imposed a similar requirement. Health certificates issued by competent authorities' should not need to be ratified by embassies, as this lead to additional steps, fees, and undue delays. Furthermore, sometimes embassies refused to provide such ratification, creating additional trade delays and problems. The European Communities wanted to raise this issue before the problem became more widespread, and suggested that administrative procedures should be simplified and respect WTO provisions.

139. Saudi Arabia noted that although it was a member of the GCC, its comments were not being made on behalf of GCC members as a whole. Efforts were being made to draft a manual that complied with the relevant international standards, particularly those of Codex. Although the measure was to have entered into force in January 2008, this had not yet occurred. Some concerns that had been identified should be resolved when the standard was revised. The draft was in Arabic, and many of the concerns were due to misinterpretations. An official English translation was underway and would be available along with the revision of the text. GCC countries were dependent on other countries for their food supply, and would make every effort to ensure fair trade for all partners. Saudi Arabia was open to discussing these issues bilaterally and would also bring the matter to the attention of the GCC secretariat.

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

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINESE TAIPEI

Food safety

275. Maximum level for Ractopamine

Raised by:	United States
Supported by:	Canada
Dates raised:	October 2008 (G/SPS/R/53, paras. 8-12)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

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

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

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

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

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

UNITED STATES

CONCERNS RELATED TO MEASURES MAINTAINED BY UNITED STATES

Food safety

268. Import restrictions on EC dairy products

Raised by:	European Communities
Supported by:	New Zealand
Dates raised:	June 2008 (G/SPS/R/51, paras. 18-20)
Relevant document(s):	Raised orally
Solution:	The US Food and Drug Administration (FDA) would revisit the EC concerns and work with the EC Health and Consumer Protection Directorate-General on this matter.
Status:	Not reported
Date reported as resolved:	

145. In June 2008, the European Communities reported that for several years it had undertaken efforts to improve the market access for its dairy products into the United States. These had included requests for recognition of equivalence of its SPS measures and systems. The US regulatory regime governing the trade of dairy products dated from the 1920's and involved different governmental levels, such as federal and state levels, as well as individual representatives. The European Communities had pursued several options, but with no success. The European Communities underlined the importance of the United States considering the multiple requests for recognition of equivalence.

146. New Zealand noted that, as a major producer and exporter of dairy products, including fresh milk ingredients and its products, it would like to be kept informed about the developments on this issue.

147. The United States noted that any EC member State, as well as any other Member, were free to, and did, export many dairy products to the US market. Countries could ship "Non-Grade A" manufactured products such as cheeses, butter, ice cream, and other frozen desserts. It was the responsibility of the supplier of food products for importation into the United States to ensure that the food complied with the applicable US laws and FDA regulations. In the United States, a segment of pasteurized milk products, which were generally referred to as "Grade A" products, were subject to a specific set of hygiene and safety standards, described in the Pasteurized Milk Ordinance. Products designated as "Grade A" could only be produced by "Grade A" facilities. These products included fluid milk, cultured and acidified milk, cream, sour cream, half-and-half, cottage cheese, yogurt and those dried dairy products that were used as ingredients in these products. The US Food and Drug Administration (FDA) would revisit the EC concerns and work with the EC Health and Consumer Protection Directorate-General on this matter.

Animal Health

257. Import restrictions on cooked poultry products from China

Raised by:	China
Supported by:	
Dates raised:	October 2007 (G/SPS/R/46, paras. 11-12), April 2008 (G/SPS/R/49, paras. 39-40), June 2008 (G/SPS/R/51, paras. 29-30), October 2008 (G/SPS/R/53, paras. 35-36)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

148. In October 2007, China stated that the OIE had explicitly pointed out in the Avian Influenza Guideline that restrictive measures associated with avian influenza should not be applied to cooked poultry meat that had been subjected to heat treatment to destroy the virus. Nonetheless the United States prohibited the importation of such cooked poultry meat processed from poultry originated in China. Although the United States admitted that there was no technical problem for the importation of such cooked poultry meat and it was only a matter of legal procedure, the US Congress had passed in August the Agriculture Appropriations Bill for Fiscal Year 2008, of which Section 731 prohibited the importation of such products from China. China questioned the scientific justification behind such a decision, how this section took into consideration the SPS principle of minimizing negative effects on trade and the principle of risk assessment. China hoped that the United States would abolish Section 731 and lift the ban as soon as possible.

149. The United States noted that the Agriculture Appropriations bill had not yet passed Congress, and was subject to potentially substantial change before it was signed into law by the President.

150. In April 2008, China indicated that despite numerous bilateral meetings, including on the recognition of equivalence, China's cooked poultry products were still denied access to the US market. The United States had admitted that there were no technical problems with the importation of cooked poultry from China, yet imports remained restricted due to legal problems. The Agriculture Appropriations bill, which contained a specific provision to not allow imports from China, had been signed into law. This prohibition was contrary to Articles 2.2 and 2.3 of the SPS Agreement, as the

law was discriminatory and not science-based. This development set a bad precedent, showing that SPS measures could be easily overturned by legislation that paid no attention to scientific factors.

151. The United States explained that the Agriculture Appropriations bill prohibited the use of federal funds by USDA to continue work on this rule. China's concerns would be brought to the attention of the appropriate authorities in Washington, with the aim to resolve this problem as soon as possible.

152. In June 2008, China reported that its concerns on the US ban on imported Chinese cooked poultry dated back to 2004. China had been informed that all technical issues, including recognition of the equivalence of its sanitary system, had been resolved during bilateral consultations. However, the US Agriculture Appropriations Bill for Fiscal Year 2008, Section 7333, stipulated that the funds made available by that bill could not be used to establish or implement a rule allowing Chinese poultry products to be imported into the United States. This legislation disregarded the fact that the USDA had undertaken a risk assessment which concluded that Chinese cooked poultry did not pose risks to health. China considered the law to be discriminatory, and not based on science. China requested an update of the situation, and an indication of when Chinese cooked poultry products would be allowed into the US market.

153. The United States indicated that it placed great importance on the fact that its SPS measures were based on science. China's concerns would continue to be raised with the appropriate authorities within the United States with the hope that this situation could be resolved as soon as possible.

154. In October 2008, China reiterated its concerns regarding US import restrictions on cooked poultry products from China, even though there were no technical problems with these products. However, the US Agriculture Appropriations Bill banned the use of federal funds to allow poultry products to be imported from China.

155. The United States affirmed that it would continue to raise China's concerns with the appropriate authorities in Washington and hoped to resolve the issue as soon as possible.

Plant Health

153. Restrictions on imports of Chinese potted plants in growing medium

Raised by:	China
Supported by:	European Communities
Dates raised:	November 2002 (G/SPS/R/28, paras. 43-45), March 2004 (G/SPS/R/33, paras. 21-22), April 2008 (G/SPS/R/49, paras 55-56)
Relevant document(s):	G/SPS/N/USA/431 and addendum
Solution:	
Status:	Not reported
Date reported as resolved:	

156. China indicated that US prohibitions on the importation of Chinese penjing in growing medium continued almost six years after the risk analysis had been finished and the protocol had been signed. The United States had relied on the excuse of domestic legal procedures and the need to coordinate work between the relevant government agencies to delay solving the problem. China

requested the United States to notify its work procedures concerning the removal of measures prohibiting imports of plants and plant products in compliance with the transparency provisions of the SPS Agreement. China failed to understand why the United States had proposed to solve only the problem of the importation of one of the types of penjing plants in growing medium, instead of considering the five types for which the risk analysis had been completed. The European Communities supported the concerns raised by China and noted that it had run into the same difficulties with other varieties of potted plants. The European Communities urged the United States to find a rapid solution to the problem.

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

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

159. In April 2008, China noted that this long-standing concern was still not resolved despite almost six years of pest risk assessments and technical discussions. A bilateral protocol had been signed, but could not take effect before the US domestic administrative and legal procedures were finalized. However, when the United States had published the final rule, this established more stringent requirements than those in the signed protocol, and made exports impossible. China requested an explanation of the differences between the Final Rule and the protocol, and how the principle of taking the least trade restrictive measure possible had been taken into account.

160. The United States confirmed that although the import requirements for penjing had been the subject of extensive bilateral discussions in the past, this issue had not been raised by China at bilateral plant health talks in February 2008. The United States required dwarf plants to be produced under phytosanitary secure conditions for two years prior to import. Plants less than two years old

were not subject to this requirement as they posed a lower risk. In 2003, the United States had provided a proposed work plan to China that would ensure production conditions met US requirements. Since that time, however, China had not engaged with US plant health officials on the work plan, which was necessary in order for trade to take place. The United States looked forward to working on the resolution of this issue with China.

241. 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), October 2007 (G/SPS/R/46, paras. 20-21), April 2008 (G/SPS/R/49, paras. 53-54)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

161. 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.

162. The United States replied that between 22 February 2002 and 22 October 2005, during routine 2 per cent 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 per cent 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.

163. 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 were 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.

164. 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 fumigation and heat treatment of wood handicrafts from China.

165. In October 2007, China reiterated that since 2005, when the United States suspended certain wooden handicrafts, the trade of these products had not resumed. Trade affected by this measure already amounted to over 1 million dollars. All products exported from China were fumigated with methyl bromide or were heat-treated to eliminate the risk of pests. The wooden Christmas tree which was found by the United States to have pest insects was a single violation and a problem of exceptional incidence rather than a problem with the heat treatment or fumigation methods. US experts had found a satisfactory treatment supervision system in China in February 2006. The suspension of all imports based on one case was not in line with the WTO principle of least trade restrictive. On the other hand, in 2006 and 2007, China intercepted more than ten types of pests from US imports and yet China had not taken any measures nor suspended the importation of US wooden products. The United States and China had reached an agreement on the framework for inspection management measures on wood handicrafts exported to the United States after technical meetings were held in Beijing in April 2007. China requested that the United States consider the IPPC guidelines in wood packaging and the SPS Agreement requirement of least trade restriction, and resume the importation of these products on the basis of scientific analysis.

166. The United States recalled that since mid-2004 it had intercepted more than 400 brown fir beetles over a two-year period. Quarantine pests had even been detected on products that had reportedly, according to the certification by Chinese officials, been fumigated or heat-treated. At the time, the United States actively sought input of Chinese quarantine officials to develop a plan of action to address this problem, but did not receive any response. Therefore, on 1 April 2005 the importation of the handicrafts were suspended to prevent the introduction of dangerous forest pests. The restrictions did not apply to products which had been treated and had the bark removed. Prior introduction of forest pests from China, including the Asian long horned beetle and the emerald ash borer, had serious environmental and economic consequences in the United States. The United States was in the final stages of the risk assessment analysis and hoped that this assessment would be available for public comment in the near future. The United States had been very transparent regarding this issue and had maintained significant dialogue with the Chinese officials. The United States had also provided significant funding to support training for Chinese port personnel on appropriate treatments for exported Chinese wooden handicrafts. The United States was committed to continuing the dialogue with Chinese officials in order to reach a solution on this issue.

167. In April 2008, China reiterated that no solution had been found to the trade restrictions affecting wooden Christmas trees and other wooden handicrafts despite three years of hard work. China had developed an inspection and supervision plan to ensure that the IPPC standard was implemented, i.e. the fumigation or heat treatment of these products. US experts had undertaken a

field visit which resulted in a positive evaluation. The US pest risk assessment was reportedly in the final stage, and the delegate questioned whether this had now been finalized. China wished to know when trade would be resumed, and how China's working plan was being taken into account by the United States.

168. The United States recalled that the restrictions had been imposed following the interceptions of large numbers of live pests on Chinese wooden handicrafts over a 2-year period. Of particular concern were interceptions on products that had been fumigated or heat-treated. The United States had sought input from the Chinese authorities to develop a plan of action to address the problem, but had received no response. As a result of continued interceptions, in April 2005 the United States suspended importation of wood handicraft items from China that contained wooden logs, limbs, branches or twigs greater than one centimetre in diameter and intact bark. The United States had shared its risk assessment with Chinese authorities, and undertaken a number of bilateral technical meetings. The United States was now developing a proposed rule on import requirements, that would likely be published within nine months. The objective was to permit trade to take place with as few restrictions as possible while safeguarding against the introduction of dangerous forest pests.

269. Restrictions on apples

Raised by:	China
Supported by:	
Dates raised:	June 2008 (G/SPS/R/51, paras. 21-22), October 2008 (G/SPS/R/53, paras. 37-38)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

169. In June 2008, China noted that it had submitted an application to export apples to the United States, accompanied by the necessary technical materials. Additional materials had been provided in accordance with the US requirements on pest risk analysis. However, the US pest risk analysis had been unduly delayed. China was free of fruit flies in apple planting areas, and it used fruit-bagging techniques to prevent pests and disease infections as the bagged fruits were totally isolated from the environment. China was also free of fire blight and there were no quarantine risks for Chinese apples. Furthermore, China had provided all the technical materials requested by the United States, and had held bilateral technical consultations with the competent authorities. However, the US pest risk analysis on Chinese apples had still not been completed after ten years. China urged the United States to complete the relevant procedures as soon as possible.

170. The United States noted that given the significant number of pests of quarantine significance that needed to be addressed in China's request, the pest risk assessment had proven to be challenging. The United States had been seeking to finalize the list of apple pests in China since 2004. Dozens of pests of potential quarantine significance had been identified. A final list of pests needed to be developed in order to evaluate the risks associated with Chinese apples and to identify the appropriate mitigations measures. The United States would continue to work on this issue to address the scientific matters associated with the risk assessment.

171. In October 2008, China reported that it had submitted an application for the export of apples to the United States in 1998, with the necessary technical materials for a pest risk analysis. However, the process of pest risk analysis had been delayed for more than ten years with the claim of repeated technical problems. This had seriously impeded the export of Chinese apples. Chinese apples had similar production areas, disease and pest occurrences, and regulations as pears in China. The United States allowed the importation of pears based on a risk assessment. This showed that there should not be any quarantine problem for Chinese apples to be exported to the United States.

172. The United States reported that since 2004, it had sought to finalize the list of apple pests of China. However, more scientific information was needed from the Chinese authorities to know whether some pests occurred in areas of China where apple production was concentrated.

277. NAPPO draft standard for Regulating the Movement of Ships and Cargoes Aboard Those Ships from Areas Infested with the Asian Gypsy Moth [See Item 277, pages 2-3]

Other concerns

265. Regulatory process economic analysis requirement

Raised by:	Brazil
Supported by:	
Dates raised:	April 2008 (G/SPS/R/49, paras. 24-25)
Relevant document(s):	
Solution:	
Status:	Not reported
Date reported as resolved:	

173. In April 2008, Brazil indicated that before an import permit final rule was approved, the US regulatory process required not only a health risk assessment but also economic analysis of the imported product. This longstanding Brazilian concern had previously been discussed bilaterally but remained unresolved despite the establishment of a bilateral committee. The analysis was done to see if there would be damage to small US businesses, however it was unclear what happened when an economic impact was detected. This time-consuming step resulted in delays in the final assessment, which caused economic losses to the exporting Member. Brazil considered that this requirement was not in compliance with Article 5 of the SPS Agreement, according to which only certain economic factors were to be considered in risk assessments. These did not include the analysis of possible economic harm that could be caused by the imported goods. Brazil requested the United States to eliminate this economic analysis requirement.

174. The United States noted that Brazil's concerns appeared to be based a misunderstanding. The US Administrative Procedures Act of 1946 established the regulatory process for all regulations. This included public participation in the rule-making process, but ensured the scientific basis of final decisions. Many stakeholders had requested that the process be expedited. The relevant US agencies made every effort to expedite the process, but were required to comply with the legislation. The economic analysis provided important information on the likely impact of a proposed regulatory

change. But SPS measures were not determined on the basis of the economic analysis – this was simply a part of the internal transparency requirements.

CERTAIN MEMBERS

CONCERNS RELATED TO MEASURES MAINTAINED BY CERTAIN MEMBERS

Animal Health

193. General import restrictions due to BSE

Raised by:	European Communities
Supported by:	Canada, Switzerland, United States, Uruguay
Dates raised:	June 2004 (G/SPS/R/34, paras. 37-38), October 2004 (G/SPS/R/35, paras. 85-86), June 2005 (G/SPS/R/37/Rev.1, paras. 75-76), February 2007 (G/SPS/R/44, para. 29), October 2008 (G/SPS/R/53, paras. 24-28)
Relevant document(s):	Raised orally
Solution:	
Status:	Partially resolved
Date reported as resolved:	

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

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

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

178. In June 2005, the European Communities reported that the number of countries that had lifted their respective bans on EC bovines and bovine products in accordance with OIE standards had been regularly growing, including also non-Members of the WTO. According to the revised BSE chapter

of the Terrestrial Animal Health Code, many bovine derivated products, including deboned skeletal muscle and blood products, could be safely traded regardless of the BSE status of the exporting country. The European Communities invited the remaining WTO Members to replace their import bans with specific import requirements in accordance with OIE standards.

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

180. In October 2008, the European Communities recalled the concerns previously raised by Canada regarding Korea's restriction on beef imports. The European Communities also had concerns regarding restrictions maintained by other WTO Members on EC beef exports even though these products were considered safe and in compliance with the BSE chapter of the OIE Terrestrial Animal Health Code.

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

182. Uruguay supported the concerns of the European Communities and Canada. With regard to animal health regulations applied to trade, Uruguay stated that all WTO Members should conform to the OIE designation and to the standards of the three reference organizations in general. Switzerland supported the EC concern on restrictions due to BSE.

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

Other concerns

273. Health certificate ratification by national embassies [See Item 273, pages 28-29]