WORLD TRADE ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

Addendum

PART 3

This part of document G/SPS/GEN/204/Rev.5 contains summary information regarding all issues which were raised in the SPS Committee between 1995 and 2004, and on which no further discussion or activities occurred during 2004. However, issues raised as of 1995 but for which a resolution was reported prior to 2004, are not contained in this part but are contained in Part 4 of this document.

[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.

TABLE OF CONTENTS

ARGENTINA

CONCERNS RELATED TO MEASURES MAINTAINED BY ARGENTINA

Animal Health and Zoonoses

Concerns related to TSEs

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

Raised by:	Bulgaria, Croatia, Czech Republic, Estonia, Latvia, Poland, Romania, Slovak Republic, Slovenia
Supported by:	European Communities, United States
Dates raised:	March 2001 (G/SPS/R/21, paras. 18-25), July 2001 (G/SPS/R/22, para. 48)
Relevant document(s):	G/SPS/GEN/247, G/SPS/N/ARG/59, G/SPS/N/AUS/125, G/SPS/N/CAN/94, G/SPS/N/KOR/83, G/SPS/N/NZL/77, G/SPS/N/USA/379
Solution:	Not reported

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

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

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

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

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

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

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

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

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

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

health, dairy products had been reclassified from medium to low risk, and the relevant decree eliminated the restrictions. This reclassification was not yet complete, and one category of milk remained under restriction. The United Kingdom was considered a high-risk country, but the situation was under analysis.

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

Other Animal Health Concerns

71. Argentina - Temporary prohibition of fresh pork and products

Raised by:	European Communities
Supported by:	
Dates raised:	March 1998 (G/SPS/R/10, paras. 34-35)
Relevant document(s):	G/SPS/N/ARG/9
Solution:	Not reported

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

Other Concerns

72. Argentina - Pest risk assessment requirements

Raised by:	United States
Supported by:	Canada, European Communities, New Zealand
Dates raised:	November 2002 (G/SPS/R/28, paras. 80-82).
Relevant document(s):	G/SPS/N/ARG/67 and G/SPS/N/ARG/68
Solution:	Not reported

11. The United States sought clarification on the criteria Argentina would use in determining whether or not a product tracing system through the production and marketing chain met the requirements of this measure. The measure also referred to mutual agreements under which

Argentina authorized imports of animals and animal products and the United States requested information about existing agreements that Argentina might have concluded, as well as the criteria and procedures for future such agreements. Furthermore, the United States sought information on the role of equivalence under this measure, for example, would Argentina recognize the overall inspection systems of exporting countries, or only verify compliance with Argentine requirements?

12. Canada stated that certain elements of Argentina's measure were unnecessarily trade restrictive, such as the requirement for an audited traceability system throughout the entire product and marketing chain for a wide range of products, live animals, reproductive material, soil dressing etc. Canada was concerned that all foreign establishments would be subject to prior inspection and authorization that was only valid for two years. This requirement provided no flexibility for cases where no risk problems were present, and could result in high costs to exporters. The representatives of New Zealand and of the European Communities supported the concerns raised by the United States and Canada and expressed a systemic interest in the issue.

13. Argentina requested the United States to provide its questions in writing. The notification was open for comments and the period for comments had been extended due to requests from trading partners. Argentina noted that other countries, including the European Communities, approved plants for export to their markets only after visiting those plants, and then the conditions were maintained by Argentina.

AUSTRALIA

CONCERNS RELATED TO MEASURES MAINTAINED BY AUSTRALIA

Animal Health and Zoonoses

Other Animal Health Concerns

73. Australia – Restriction on pigmeat

Raised by:	European Communities
Supported by:	Canada
Dates raised:	November 2002 (G/SPS/R/28, paras. 75-76), April 2003 (G/SPS/R/29, paras. 67-69)
Relevant document(s):	Raised orally
Solution:	Not reported

14. The European Communities noted that Australia banned imports of pigmeat from the European Communities, except Danish pigmeat subject to a specific heat treatment. Australia had began a risk assessment for pigmeat imports in May 1998, and although the results had been scheduled for February 2000 they had not been presented and no alternative date had been set. Four and a half years was too long a delay to wait for a risk assessment to be undertaken. The European Communities had formally proposed equivalent measures, but Australia had not accepted these. The European Communities requested Australia to take a decision as quickly as possible.

15. Australia indicated that a generic import risk analysis (IRA) of the quarantine risks and risk management options associated with disease agents that may be introduced into Australia with pigmeat imported from a number of countries, including EC member States was being conducted. A technical issues paper issued early in 2001 identified a range of quarantine risks including foot-and-mouth disease, African swine fever, classical swine fever, as well as various other pig diseases. The pigmeat IRA was necessarily comprehensive and complex; Australia's pig industry had a very favourable health status. In the case of EC exports, the risk analysis had to deal with three OIE List A

diseases, as well as a number of other serious diseases present in EC member States but absent in Australia. For some serious diseases little scientific information was available and Australia had to commission significant research to provide independent scientific information on a range of issues including the transmissibility of Porcine Respiratory and Reproductive Syndrome (PRRS). The results of some mayor research was expected to be available at the end of the year. Technical input from the European Communities on PRRS and other diseases being considered in the import risk analysis would be welcomed.

16. In April 2003, the European Communities noted that it had taken 17 years to obtain some access for processed meat from Denmark into Australia. Furthermore, there was still no date given for the publication of the general risk assessment undertaken by Australia in 1998. The European Communities questioned why there was still a debate on the methodology to be used for conducting the risk assessment four-and-a half years after the risk assessment had begun. The time necessary for completion of the IRA was excessive and the requirements for Danish imports were disproportionate to the risk. The European Communities called on Australia to publish the IRA without further delay and to give positive consideration to equivalent measures. Canada also expressed frustration with the delays in Australia's IRA procedures.

17. Australia observed that Aujetsky's disease was eradicated in Denmark only in 1992 and following that porcine reproductive and respiratory syndrome (PRRS) emerged. This had to be considered in the import risk analysis commenced in 1994. The import of pigmeat from Denmark, subject to certain requirements, was approved in 1997. A generic import risk analysis on pigmeat was assessing import requests from a wide range of countries. Various updates had been provided – including a recent update to the European Commission. Comments on the methodology paper were welcomed and a draft of the risk assessment would be available as soon as possible. The process was transparent and science-based. Independent research on PRRS had demonstrated oral transmission of the virus via pigmeat. Given the lack of scientific information on its transmission via meat, Australia was seeking the information needed for an informed quarantine policy decision

74. Australia - Import restrictions on prawn and prawn products

Raised by:	Thailand on behalf of ASEAN
Supported by:	Philippines on behalf of ASEAN, European Communities
Dates raised:	March 2001 (G/SPS/R/21, paras. 84-85), October 2001 (G/SPS/R/25, paras. 109-111), March 2002 (G/SPS/R/26, para-137), June 2002 (G/SPS/R/27, paras. 138-139), November 2002 (G/SPS/R/28, paras. 193-194), April 2003 (G/SPS/R/29, paras. 58-59), June 2003 (G/SPS/R/30, paras. 52-53)
Relevant document(s):	G/SPS/N/AUS/124, G/SPS/N/AUS/126
Solution:	Not reported

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

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

20. In March 2002, Thailand sought information regarding the status of Australia's risk analysis, noting that the original date for conclusion of the risk assessment had been June 2001. Australia replied that work on the risk analysis was continuing, and all stakeholders would be informed of the current status by letter. In response to requests from importers, Biosecurity Australia was conducting an equivalence assessment to determine if there were less trade restrictive alternative measures which could be applied to highly processed prawn products.

21. In June 2002, Thailand requested information on the period of application of the interim measure related to white spot syndrome and its scientific basis. Malaysia and the Philippines expressed interest in this issue. Australia replied that a report had been published on progress made, including a summary of a meeting with stakeholders. The next meeting of the risk analysis panel considering the issue was scheduled for late July 2002, after which a draft risk analysis report would be issued. The scientific concerns on white spot syndrome which had led to the interim measure remained. Australia had completed an equivalence assessment, and on 25 June 2002 implemented changes in the requirements for highly processed prawn products.

22. In November 2002, Thailand expressed concerns over the continuation of the interim measure imposed by Australia and urged Australia to complete the risk analysis and abolish the measure as soon as possible. The Philippines, speaking on behalf of ASEAN, supported the concerns expressed by Thailand and noted their interest in monitoring the issue. Australia reported that the next step of the Australian IRA would be the release of a revised draft import risk analysis report. In the meantime, the interim measures from June 2002, including the amended conditions, would continue. The interim measure was science-based, temporary and applied only to a small proportion of prawn exports to Australia from Thailand and other countries. Experts from the aquatic animal biosecurity team had recently visited Thailand to work out a cooperative technical assistance programme exploiting the feasibility of alternate measures, including area disease freedom, which might enhance prospects for trade in the prawn products of concern.

23. In April 2003, Thailand observed that interim measures against the import of uncooked prawns and prawn products from ASEAN countries had been in place for over two years and there was no legitimate reason for the continuation of these emergency measures. Australia stressed that the measures were limited to high risk products – uncooked prawns – that accounted for only 5% of the prawn products exported to Australia from Thailand. Tests had indicated the positive presence of white spot virus in Thai uncooked prawn products shipped to Australia. The disease was exotic to Australia. Biosecurity Australia had commissioned a study on bait use which provided clear support for the measures taken. Australia was committed to finalizing the IRA as soon as possible and was also working on technical assistance projects for alternative biosecurity measures for prawns, including aquatic disease zoning methodologies.

24. In June 2003, Thailand reported that the interim measure was still in place and it appeared unlikely that the import risk analysis would be concluded within a short period of time. Australia reported that it was making good progress in its import risk analysis and a revised draft report was underway. The analysis was very complex and characterized by a lack of information as Thailand had not provided new information on white spot syndrome virus.

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

Raised by:	Thailand
Supported by:	European Communities
Dates raised:	September 1998 (G/SPS/R/12, paras. 42-45), October 2001 (G/SPS/R/25, para. 37), June 2002 (G/SPS/R/27, paras. 135-137), November 2002 (G/SPS/R/28, paras. 190-192), April 2003 (G/SPS/R/29, paras. 60-62), June 2003 (G/SPS/R/30, paras. 54-56)
Relevant document(s):	G/SPS/N/AUS/72, G/SPS/GEN/90, G/SPS/GEN/96, see also G/SPS/R/13, G/SPS/GEN/137 and GSPS/W/107/Rev.1
Solution:	Not reported

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

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

27. In June 2002, Thailand informed the Committee that its risk assessment on IBD virus in Thai cooked chicken meat to Australia showed that the risk of introducing IBDV to backyard flocks through cooked chicken meat was negligible. This report had been submitted to Australia in May 2002. Thailand hoped that within its new food safety mandate, the OIE would undertake work on IBD. Australia indicated that conditions for importation of cooked chicken had come into effect in August 1998, setting certain time and temperature cooking parameters. Thailand had applied for access for product from a certain facility, and had recently provided information. Australia would provide a response once the Thai document had been considered by an expert review group. The representative of the OIE reiterated his request that Members submit information on IBD to be able to make progress with the work undertaken by the OIE.

28. In November 2002, Thailand indicated that it was still waiting for a response from Australia on the basis of the risk assessment results. Australia noted that at its recent meeting the Australian risk analysis panel had examined the Thai document in detail. The panel had prepared technical comments and questions about aspects of the Thai risk assessment which would shortly be sent to the relevant Thai authorities. The representative of the OIE took note of the risk analysis document, and indicated that as soon as the OIE received more information and data from Members it would be in a position to review the OIE chapter through its expert working group.

29. In April 2003, Thailand stated that Australia's import risk analysis process was very complicated, unduly long and conducted without a specific timeframe. Australia responded that current arrangements were the product of a science-based risk assessment which had not been formally challenged. Biosecurity Australia was studying Thailand's risk analysis on cooked chicken

meat, received in May 2002, along with additional information provided in January 2003. Australia aimed to complete the current risk analysis on chicken as soon as possible.

30. In June 2003, Thailand reported that no progress had been made since it provided scientific information to Australia in May 2002. Australia noted that cooked chicken meat from Thailand was allowed into Australia if requirements were fulfilled, in accordance with scientific findings. The representative of the OIE indicated that they had considered the issue in January 2002 and had requested more and new scientific information, however, no new information had been forthcoming.

Plant Health

76. Australia – Notification on methyl bromide

Raised by:	European Communities
Supported by:	
Dates raised:	November 2000 (G/SPS/R/20, paras. 95-96)
Relevant document(s):	G/SPS/N/AUS/118
Solution:	Not reported

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

77. Australia – Import restrictions on durian

Raised by:	Thailand
Supported by:	European Communities, India, Malaysia, Philippines on behalf of ASEAN
Dates raised:	November 2000 (G/SPS/R/20, paras. 11-14), October 2001 (G/SPS/R/25, paras. 107-108), June 2002 (G/SPS/R/27, paras. 133-134), November 2002 (G/SPS/R/28, paras. 187-189), April 2003 (G/SPS/R/29, paras. 48-50), June 2003, (G/SPS/R/30, paras. 50-53)
Relevant document(s):	G/SPS/GEN/217, G/SPS/GEN/218, G/SPS/N/AUS/83
Solution:	Not reported

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

33. Australia noted that it had been difficult to obtain accurate information on the relevant anthropod pests and diseases present in Thailand, although the numerous bilateral contacts on this matter had resulted in an expansion of the scientific information available. Australia noted that the

draft conditions established for import of fresh durian fruit had been discussed with the Thai government. The Australian delegate explained the justification for the requirements and acknowledged that the conditions were very strict, but justified based on the pest and disease situation of Thailand. Nonetheless, these conditions would be reviewed after one year of trade.

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

35. In June 2002, Thailand reiterated concerns that Australia required cutting of the product for inspection purposes, and applied an excessive sample size. Malaysia and the Philippines supported the concerns expressed by Thailand on this issue. Australia indicated their willingness to consider alternatives to destructive sampling if their efficacy was shown. On the basis of joint trials, X-ray technology appeared promising.

36. In November 2002, Thailand recalled that it had been seeking access to Australia's market for durian since 1991. The matter had been pursued on a bilateral basis, but to date no agreement had been reached. Thailand was of the view that Australia should have concluded its consideration of the alternative method of rapid scan for inspection of import durian. The Philippines, on behalf of ASEAN, expressed systemic concerns and noted their interest in monitoring developments in this matter. Australia reiterated that the import conditions were subject to review after the first year of trade, and that other less destructive methods of inspection could be substituted for fruit cutting, if efficacy data showed that it could provide an equivalent level of quarantine protection from the key pests of concern. Australia was willing to continue to work with the Thai authorities to make progress on the assessment of non destructive inspection methods.

37. In April 2003, Thailand stated that there had been little progress on its concerns as the measures proposed by Australia were not commercially viable. Australia reported that alternative risk mitigation options such as pest free areas of production, pest free production sites and reproscan inspection methods were discussed by the joint Thai-Australian working group on agriculture on 3-7 March 2003. The Thai authorities were considering the pest free alternatives and had agreed to a joint collaborative trial of the reproscan inspection methods for the fruiting season in late April and June. A longer term solution might be irradiation and Australia understood that Thailand could be interested in conducting trails as no efficacy data was currently available.

38. In June 2003, Thailand indicated that Australia's requirements for fresh durian imports were not consistent with the obligations of Article 5.6 of the SPS Agreement. Australia replied that it had specified the use of internationally accepted measures such as destructive fruit cutting which was used by many countries. Australia was prepared to consider alternative ways to address the quarantine risks associated with Thai durian fruit.

78. Australia – Restrictions on imports of tropical fresh fruit

Raised by:	Philippines on behalf of ASEAN
Supported by:	Brazil, European Communities, India, Korea, Malaysia, Thailand, United States
Dates raised:	March 2000 (G/SPS/R/18, para. 67), June 2000 (G/SPS/R/19, paras. 15-20)
Relevant document(s):	G/SPS/GEN/189, G/SPS/GEN/194
Solution:	Not reported

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

40. In June 2000, the Philippines pointed out that major ASEAN exports to Australia faced stringent SPS measures that were not based on a risk assessment. These measures were more restrictive than necessary, and should be reviewed within a reasonable period of time. Malaysia suggested Australia carry out ASEAN-wide risk assessments. Australia offered detailed comments on each of the points raised by the Philippines and noted that a formal response would be provided in due course. In response to Malaysia, Australia explained that pest risk analysis was specific to the trading partners involved and varied according to the exporter's pest status.

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

79. Australia – Import Requirements for Netherlands Truss Tomatoes

Raised by:	European Communities
Supported by:	Philippines, Indonesia, Thailand
Dates raised:	April 2003 (G/SPS/R/29, paras. 25, 27), June 2003 (G/SPS/R/30, paras. 64 - 65)
Relevant document(s):	Raised Orally
Solution:	Not reported

42. The European Communities raised concerns that Australia was taking too long to conduct an import risk assessment for truss tomatoes due to reasons other than technical issues. The risk assessment was still incomplete after six years. In 1999 Australia presented a draft risk assessment on tomatoes without green parts despite the Netherlands' explicit request to export tomatoes on the truss. Truss tomatoes had been approved from New Zealand after New Zealand had approved Australian imports of the same product. On 26 March 2003, Biosecurity Australia unexpectedly indicated that there was no longer a need for a risk assessment for truss tomatoes. However, import conditions were still pending as a draft review of the quarantine requirements for the import of Dutch tomatoes needed

to be circulated to stakeholders for comment. The European Communities felt that the time period necessary for Australia to conduct its import risk analysis was disproportionate to the risk and discriminated unjustifiably between WTO Members.

43. Australia explained that on 26 March, Biosecurity Australia announced that imports of truss tomatoes would be assessed as an extension of the technical policy recently developed for truss tomatoes from New Zealand – this would shorten the risk assessment process. The draft review would include draft import conditions and would be released to stakeholders with a 30-day comment period. The finalized review document would be available before the end of May 2003.

44. In June 2003, Australia reported that the draft import policy for truss tomatoes from the Netherlands had been issued and was publicly available and stakeholders invited to comment. A response to the Netherlands request for market access would follow soon. The European Communities expressed disappointment that the draft policy was still open for comments from stakeholders and therefore far from being finalized. The Philippines, speaking on behalf of Indonesia and Thailand, supported the views of the European Communities.

BOLIVIA

CONCERNS RELATED TO MEASURES MAINTAINED BY BOLIVIA

Animal Health and Zoonoses

Other Animal Health Concerns

80. Bolivia - Restrictions on poultry meat imports

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

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

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

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

BRAZIL

CONCERNS RELATED TO MEASURES MAINTAINED BY BRAZIL

Food Safety

81. Brazil - Import requirements for wine

Raised by:	European Communities
Supported by:	
Dates raised:	May 1996 (G/SPS/R/5, para. 13), March 1997 (G/SPS/R/7, para. 23)
Relevant document(s):	G/SPS/N/BRA/13/Rev.1
Solution:	Not reported

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

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

Animal Health and Zoonoses

Other Animal Health Concerns

82. Brazil – Imports of live ostriches

Raised by:	European Communities
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, para. 97)
Relevant document(s):	G/SPS/N/BRA/67
Solution:	Not reported

50. The European Communities stated that they would bilaterally request clarification of the legal scope and scientific grounds for the measure. Brazil reported that the import restriction on live ostriches was due to the possible threats posed to the Brazilian poultry industry. The regulation that had been notified to the SPS Committee required that the OIE existing standards for inspection, supervision and quarantine requirements, both at the point of origin and the point of destiny, be followed. Brazil took note of the request from the European Communities to provide the necessary risk assessment for the non OIE-listed diseases and agreed to convey this request to the relevant authorities.

Plant Health

83. Brazil – Pest risk assessments for imports of plant origin

Raised by:	Canada
Supported by:	Australia, European Communities, New Zealand, Peru, United States
Dates raised:	November 2002 (G/SPS/R/28 , paras. 77-79)
Relevant document(s):	G/SPS/N/BRA/65
Solution:	Not reported

51. Canada referred to Brazil's legislative requirement for pest risk assessments for all vegetable products imported into Brazil, published on 28 March 2002. While Canada did not challenge the right of Brazil to conduct pest risk analysis for imported commodities, they considered the measure as unduly restrictive of trade, in particular given that imports would be suspended on 27 November 2002, pending completion of the pest risk assessments. Canada had exported a number of products covered by this measure for many years without any particular concern, and requested Brazil to allow existing trade from well known sources to continue while the pest risk assessments were being completed. In this regard, Canada was prepared to provide the information required to facilitate the early completion of any risk assessments concerning products from Canada.

52. The United States did not believe that it was necessary or justifiable to ban or temporarily halt the importation of products while PRAs were being conducted unless there was a specific pest risk problem that would required such drastic action. Australia, the European Communities, New Zealand and Peru shared the concerns expressed by Canada and the United States and requested Brazil to withdraw the application of the measure.

53. Brazil stated that one key concern was that many PRAs were open-ended and the studies never came to completion. Brazil was reassessing the matter and considering alternatives to the PRAs, such as the possibility of extending the time-frame for implementation of the measure in the case of ongoing studies, including cases where documents had already been forwarded to Brazil. Brazil requested trading partners to identify their concerns in writing, so that responses could be provided by the competent authorities.

84. Brazil – Import prohibition of coconut palms and related products

Raised by:	Philippines
Supported by:	Malaysia, Sri Lanka
Dates raised:	June 1998 (G/SPS/R/11, paras. 25-26), September 1998 (G/SPS/R/12 and Corr.1, paras. 5-6)
Relevant document(s):	G/SPS/N/BRA/1
Solution:	Not reported

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

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

CANADA

CONCERNS RELATED TO MEASURES MAINTAINED BY CANADA

Food Safety

85. Canada - Importation of cheese

Raised by:	European Communities
Supported by:	Switzerland
Dates raised:	May 1996 (G/SPS/R/5, para. 14)
Relevant document(s):	G/SPS/N/CAN/8
Solution:	Not reported

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

Animal Health and Zoonoses

Concerns related to TSEs

86. Canada - Zoosanitary import policies pertaining to BSE

Raised by:	European Communities
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, paras. 24-25)
Relevant document(s):	G/SPS/N/CAN/18
Solution:	Not reported

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

Concerns related to FMD

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

Raised by:	Hungary
Supported by:	
Dates raised:	March 2001 (G/SPS/R/21, paras. 90-91), July 2001 (G/SPS/R/22, para. 133)
Relevant document(s):	Raised orally
Solution (if reported):	Not reported

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

CHILE

CONCERNS RELATED TO MEASURES MAINTAINED BY CHILE

Food Safety

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

Raised by:	United States
Supported by:	
Dates raised:	October 1996 (G/SPS/R/6, paras. 18-25), March 1997 (G/SPS/R/7, paras. 52-53), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GN/3, G/SPS/N/CZE/8, G/SPS/GEN/265
Solution:	Not reported

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

60. The Slovak Republic responded that it did not apply a zero-tolerance standard, but rather required ante- and post-mortem treatment of slaughter poultry, for domestic and imported poultry meat. The Czech Republic clarified that its regulations required negative results on *salmonella* tests in poultry holdings and slaughterhouses. Czech requirements were laid out in the Draft Law on Foodstuff and Tobacco Products to be adopted in 1997, notified as G/SPS/N/CZE/8. No assurances had been received from the United States that these requirements would be met. The Czech Republic suggested bilateral consultations between veterinary experts. The representatives of Honduras and El Salvador indicated that they would inform their authorities of the statement made by the United States.

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

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

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

Plant Health

89. Chile – Restrictions on imports of wheat and fruit

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

64. In March 1997, the United States expressed concerns that Chile's import requirements for wheat and fruit did not recognize regional conditions in line with the SPS Agreement, nor IPPC guidelines relating to pest-free areas. With respect to wheat, Chile replied that the United States had not asked to be recognized as free of *tilletia indica* (Karnal bunt). Regarding fruit, Chile stressed that

it had recognized areas free of the fruit flies *anastrepha fraterculus* and *ceratitis capitata* (Mediterranean fruit fly) in California, which would facilitate the entry of US exports.

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

CHINA

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINA

Food Safety

90. China – Food safety regulations affecting agricultural products produced from modern biotechnology

Raised by:	United States
Supported by:	Argentina, Australia, Canada
Dates raised:	March 2002 (G/SPS/R/26, paras. 12-14), June 2002 (G/SPS/R/27, paras. 21-23), November 2002 (G/SPS/R/28, paras. 93-94)
Relevant document(s):	G/SPS/N/CHN/10
Solution:	Not reported

66. In March 2002, the United States but expressed serious concerns about China's Ministry of Agriculture implementing regulations for the management agricultural biotechnology products. These regulations, originally published on 6 June 2001, were released, without warning on 7 January 2002. The regulations, which required pre-market approval and mandatory labelling of biotech products and affected GMO imports, were scheduled to go into effect on 20 March 2002. The United States noted that China had not notified these regulations to the WTO, precluding any chance for comment by interested WTO Members. Furthermore, certain aspects of the new regulations appeared to be inconsistent with WTO rules, and established different approval procedures for imported and domestic products. The United States welcomed the interim measures issued on 11 March 2002, which streamlined measures for the importation of biotech agricultural products through 20 December 2002. Canada, Argentina and Australia associated themselves with the concerns expressed by the United States.

67. China explained that public anxiety country over the safety of GM agricultural products and foods had led the Chinese Government to issue regulatory rules in May 2001. As China was not at that time a WTO Member, it had no obligation to make a notification. However, China intended to notify the three implementing measures issued in January 2002t once the English versions had been finalised. China reported that bilateral consultations had been held with the major parties concerned and that interim measures had been introduced to avoid disruption of normal trade.

68. In June 2002, the United States reported that China's Ministry of Health had issued a decree on biotech safety and labelling on 8 April 2002. The decree would take effect on 8 July, but the Ministry of Health had not issued implementing regulations. Additionally, the decree had not been notified. The United States believed that mandatory labelling for biotech products that were substantially equivalent to their conventional counterparts had no scientific justification. Under such circumstances, labelling wrongly implied a possible risk to the consumer. US companies exported to China over US$ 1 billion/year of biotechnology products, including soybeans and corn, and processed

products. The United States requested an interim period for implementation of the decree, to allow sufficient time for compliance by exporters. Canada and Argentina shared the concerns expressed by the United States. China explained that the failure to notify the measure in advance had been inadvertent, and invited Members to send comments to its Enquiry Point or directly to the Ministry of Health. China also expressed an interest in holding bilateral consultations with interested WTO Members.

69. In November 2002, the United States and Argentina expressed concern regarding the implementation dates proposed for the April regulations and requested China to consider ways to reduce the possible trade effects. Argentina also reported that it had held bilateral consultations with China on this matter. China clarified that notification of the draft regulation had been submitted just prior to the last SPS Committee meeting. China's Ministry of Health had agreed to extend the interim period for one year.

91. China – Zero tolerance for e-coli

Raised by:	United States
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 87-88)
Relevant document(s):	G/TBT/N/CHN/6
Solution:	Not reported

70. The United States recognized the need for China to reduce bacterial contamination on raw meats and poultry products to the lowest achievable level but had two concerns related to this notification. The United States believed that the complete elimination of enteropathogenic bacteria in raw meats and poultry products was not achievable using existing technologies and practices and they were interested in more information related to the risk assessment that had been used as the basis for this zero tolerance. Experience in the United States had shown that carcasses of normal healthy birds and animals could still contain a variety of bacteria, including those of concern to China, but proper preparation and handling could eliminate health concerns. As the basis of China's notification appeared to be food safety and human health concerns, the United States requested that China also notify this proposed regulation under the SPS Agreement. China agreed to consult with the standardizing agency and take the necessary steps.

Animal Health and Zoonoses

Concerns related to TSEs

92. China - Import requirements for cosmetics

Raised by:	European Communities
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras. 13-14), November 2002 (G/SPS/R/28, paras. 50-51), June 2003 (G/SPS/R/30, paras. 39-40)
Relevant document(s):	Raised orally
Solution:	Not reported

71. The European Communities noted that China had imposed import restrictions on cosmetics beginning in March 2002. The new regulations prohibited cosmetics containing certain ingredients of animal origin from 18 countries having officially declared the existence of BSE. Cosmetics from these 18 countries required certification that they did not contain specified products of bovine or ovine origin. According to China's notification, the justification of the measure was to prevent introducing BSE into China. The European Communities considered that the measures were in contradiction to

the SPS Agreement. China had notified its measures as emergency measures, whereas BSE had been present in those countries for many years and there was no new scientific evidence indicating a particular risk from cosmetics. In addition, the measures had no scientific basis and went far beyond the OIE standard on BSE and were disproportionate compared to the risks. The measures were also discriminatory, because they did not apply in the same manner to all countries where identical sanitary conditions prevailed. The European Communities requested that China make available the scientific justification and the risk assessment underlying the measure.

72. China indicated that it only prohibited the importation of cosmetics derived from bovine or ovine brains, placenta, nerves, etc. from BSE-infected countries and regions, in accordance with the OIE and WHO recommendations. China had notified its measure and requested exporting countries to provide the names and signatures of the authorities responsible for issuing the certificates ensuring that the cosmetics met the Chinese requirements. Several EC member States had proceeded accordingly and China had recognized, or was in the process of recognizing, the competent certifying authorities of those member States.

73. In November 2002, the European Communities reported good progress in resolving this issue. Extensive bilateral trade in cosmetics between China and the European Communities had taken place before China introduced the new provisions, and in particular the protective measures related to BSE. EC experts on BSE-related risk assessment were to visit Beijing, and both countries were hopeful that the discussions would lead to a resolution of the problem.

74. In June 2003, the European Communities reported that further progress was made as China had presented a list of prohibited products. China responded that it was willing to review its regulations and welcomed continued dialogue.

Plant Health

93. China – Regulation on wood packaging material

Raised by:	European Communities
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 38-39), June 2003 (G/SPS/R/30, paras. 39-40)
Relevant document(s):	G/SPS/N/CHN/14,
Solution:	Not reported

75. The European Communities stated that a number of aspects of the Chinese regulation on wood packaging material, notified as G/SPS/N/CHN/14, caused serious problems. There were important discrepancies between the Chinese legislation and relevant guidelines from the IPPC, in particular ISPM 15. The European Communities had gone to considerable lengths to address the concerns of the Chinese authorities, and a lot of progress had been made in particular following a visit from a number of experts to China. The European Communities encouraged China to come into conformity with the IPPC standard as expeditiously as possible, and to work towards resolving the issue.

76. China reported that during 2001 and 2002, large numbers of pests were regularly detected by the inspection and quarantine authorities of China in wood packaging material from the European Communities. China had notified this situation to the European Communities repeatedly, and finally decided to take emergency measures on 19 April 2002 in order to prevent the introduction of dangerous wood pests, and to ensure the protection of the environment, forestry and tourism resources in the country. The notification and the risk analysis report were sent to the European Communities for comments, to which China replied in detail on 17 June 2002. Following that date no further

comments had been received from the European Communities; the measure had been imposed on 28 June 2002, and notified to the WTO. The measure was based on scientific principles and on a risk analysis in line with the relevant provisions of the SPS Agreement.

77. In June 2003, the European Communities reported that they had now adopted the IPPC standard and China has promised to do the same. China reaffirmed that it was committed to following the IPPC standard.

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

Raised by:	Argentina
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, paras. 24-25), June 2002 (G/SPS/R/27, paras. 50-51)
Relevant document(s):	Raised orally
Solution:	Not reported

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

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

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

CROATIA

CONCERNS RELATED TO MEASURES MAINTAINED BY CROATIA

Animal Health and Zoonoses

Concerns related to TSEs

95. Croatia – Import measures on live animals and meat products

Raised by:	Hungary
Supported by:	European Communities
Dates raised:	June 2003 (G/SPS/R/30, paras. 28-31), October 2003 (G/SPS/R/31, paras. 132 – 134)
Relevant document(s):	G/SPS/GEN/416
Solution:	Not reported

81. Hungary expressed concern with measures taken by Croatia to ban imports of live animals and meat products. The ban, supposedly to provide protection against BSE, entered into force with immediate effect and was never notified. The ban applied to all meat products, including fish and poultry, as well as live animals. These could only be imported if the exporting country certified that no animal protein had been used as feed. As there was no scientific justification for the measures and since it did not apply to domestic producers, Hungary considered the ban a disguised restriction on international trade. The European Communities expressed support for Hungary's concerns. The European Communities had requested information from Croatia but did not receive any reply.

82. Croatia maintained that the measure was imposed to keep its present status as a BSE-free area in order to protect its exports of meat products. The measures taken were in accordance with established international rules and with the measures taken by the European Communities. Countries which had provided the necessary information had been exempted from the ban, e.g., Bulgaria and Romania. Croatia requested Hungary to submit the necessary information.

83. In October 2003, Croatia reported that meetings between veterinarians from Hungary and Croatia were held to resolve the issue. The European Communities noted that the statement made by Croatia at the June meeting and circulated in document G/SPS/GEN/416, that its measures were consistent with EC legislation was inaccurate. EC legislation did not prohibit imports.

Other Animal Health Concerns

96. Croatia – Restrictions on pork imports

Raised by:	Slovenia
Supported by:	
Dates raised:	April 2003 (G/SPS/R29, paras. 203-204)
Relevant document(s):	
Solution:	Not reported

84. Slovenia reported that decrees issued in March by the Croatian Ministry of Agriculture shortened the validity dates on veterinary import permits from six to three months. The reason given for this was market disturbances due to oversupply of meat in the Croatian market. The measure was

not notified to the WTO and was in breach of the WTO Agreements on SPS, Agriculture and Import Licensing Procedures.

85. Croatia stated that it had not adopted or implemented any measures to restrict imports of pork meat and products. As of January, Croatia was developing a computerized integrated system for veterinary control of border crossings. This required adjustments to the procedures for application and issuance of veterinary approvals. An important element of the new simplified system was that the period for issuance of approvals had been shortened from 30 or 60 days to only 15 days. Bilateral discussions between competent authorities would clarify the situation.

CUBA

CONCERNS RELATED TO MEASURES MAINTAINED BY CUBA

Plant Health

97. Cuba - Restrictions on apples and pears

Raised by:	Argentina
Supported by:	
Dates raised:	October 2001 (G/SPS/R/25, para. 101)
Relevant document(s):	Raised orally
Solution:	Not reported

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

EGYPT

CONCERNS RELATED TO MEASURES MAINTAINED BY EGYPT

Food Safety

98. Egypt - Restrictions on canned tuna

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

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

EUROPEAN COMMUNITIES

CONCERNS RELATED TO MEASURES MAINTAINED BY EUROPEAN COMMUNITIES

Food Safety

99. European Communities – Restrictions on shellfish

Raised by:	Indonesia
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras. 127-128), November 2002 (G/SPS/R/28, paras. 183-184)
Relevant document(s):	Raised orally
Solution:	Not reported

88. In June 2002, Indonesia raised concerns regarding an EC prohibition on shellfish from Indonesia due to biotoxic residues that had been applied for two years. The three gulfs in Indonesia which were not free of biotoxins were closed to shellfish fishing. Indonesia had responded to a questionnaire from the European Communities and was waiting for the European Communities to send an inspection team.

89. The European Communities indicated that given the high risks associated with shellfish, it accepted products only from countries with an approved sanitary programme which included control procedures for the maritime production area. The information provided by Indonesia had given the impression that controls were not mandatory, and in March 2001 the European Communities had sent a further questionnaire. The European Communities indicated that as soon as the reply to the questionnaire was received, an EC evaluation team would visit Indonesia.

90. In November 2002, Indonesia reported that an EC inspection team had visited Indonesia in October 2002. Indonesia was of the view that the resolution of the problem would have a very positive effect on the fish industry in Indonesia, especially at the production level. The European Communities commended Indonesia for all the efforts that the country had made to meet the safety requirements set out in EC legislation, and hoped that further progress would permit resolution of the problem.

100. European Communities – Pesticide and antibiotic limits in honey (Directive 96/23)

Raised by:	Cuba
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27/Corr.1, para. 130), November 2002 (G/SPS/R/28, para. 178)
Relevant document(s):	Raised orally
Solution:	Not reported

91. Cuba indicated that it had sought bilateral consultations with the European Communities on pesticide residues in honey. The European Communities confirmed that it was examining a plan submitted by Cuba for residue analysis, and would continue to pursue this bilaterally.

92. In November 2002, Cuba reported that progress had been made in bilateral consultations with the European Communities on regulation EC 96/93 setting out residue limits for imported honey.

101. European Communities - Regulations on genetically modified food and feed

Raised by:	United States
Supported by:	Australia, Argentina, Canada, Israel, Jordan, Taipei, China, Singapore, Egypt
Dates raised:	October 2001 (G/SPS/R/25, paras. 40-44), March 2002 (G/SPS/R/26, paras. 45-56), April 2003 (G/SPS/R/29, paras. 84-87), June 2003 (G/SPS/R/30, para. 168)
Relevant document(s):	G/TBT/N/EEC/6 and 7, G/SPS/N/EEC/149, G/SPS/N/EEC/150, G/SPS/GEN/397, G/SPS/GEN/398, G/SPS/GEN/399
Solution:	Panel established on 29 August

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

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

95. In March 2002, the United States noted that the EC measure notified as G/SPS/N/EEC/149, would require a lengthy food safety review for all biotech foods, and for the first time, biotech feeds, which would also need to be labelled. Products already authorized for food or feed use within the European Union would have to be re-authorized within nine years of their first placement on the market. The stated objective of this regulation was to protect health, environment and consumers and to prevent deceptive practices. However, the proposed regulation failed to distinguish the protection of health and the environment from perceived consumer desires. The regulation would be more trade restrictive than necessary and could create substantial difficulties for countries which imported US agricultural products for processing and further export, without addressing the identified concerns and potential hazards. The United States suggested that without affordable testing and enforcement, the proposed regulation left room for fraud, and the European Commission should examine the feasibility of implementing the regulation, and analyze its potential regulatory impact.

96. The United States further noted that the new EU Food Authority (EFA) would undertake the risk assessments for biotech food and feed, and provide technical and scientific information. But the European Commission could propose an outcome inconsistent with the risk assessment or other safety and technical information considered by EFA. This left room for political interference of the type that had led to the existing moratorium on the approval of biotech products. Furthermore, the EC legislation set a "no risk" level which could effectively block the regulatory process since no product could ever be guaranteed to have "no risk".

97. Canada believed that these proposed regulations fell within the scope of the SPS Agreement, and the primary concern of Canada was that certain elements of these proposals lacked the needed scientific basis. Argentina supported the US and Canadian statements. Israel expressed concern with the trend of Members' requiring traceability and mandatory labelling for biotech food and feed

products, a requirement not based on scientific information, and hoped that Members could find less trade restrictive measures to address their concerns. Jordan supported the consideration of the safety of GM products on the basis of risk assessment as provided in the SPS Agreement. Requirements imposed on processed products would result in unjustified costs that affected the competitiveness of products, and resulted in greater restrictions on developing countries. Egypt supported the statements of the United States and Jordan. Singapore requested the European Communities to take account of all the concerns raised to ensure that the implementation of the regulations did not impose a disguised restriction on trade, particularly for countries which processed and re-exported goods imported from the United States.

98. Chinese Taipei stated that safety assessment of all GM products should be based on scientific evidence to ensure that the products were as safe as their conventional counterparts. Members should work together in particular to strengthen risk communication. Chinese Taipei considered that an appropriate labelling scheme was necessary to respect consumers' right to know and to choose, and had introduced voluntary labelling in January 2001. Mandatory labelling would be applied in three phases starting in January 2003.

99. The European Communities recalled that these regulations had also been notified under the TBT Agreement, and that the TBT Committee had held detailed discussions at the technical level the previous week. The European Communities believed that a large part of these proposals fell within the scope of Article 2.2 of the TBT Agreement, but had notified these measures also under the SPS Agreement because many Members had expressed interest in the SPS Committee. The time-period to allow Members to submit comments also in response to the SPS notifications had been extended. The comments received had been very similar to those received in response to the TBT notification, and the European Communities subsequently circulated its response to comments received about both notifications.

100. The European Communities further reported that the draft regulation had been adopted by the EC College of Commissioners and sent to the EU Parliament and the EC Council for their final decisions. The comments received by the EC Commission, as well as the responses to these, would be provided to the EC member States, the EC Council and Parliament. It was unclear how long the process would take and when any decisions might be made. The European Communities noted that the EFA would be a scientific body with responsibility to do independent risk assessment; its advice would be sent to the EC Commission and Council for the appropriate risk management decisions. This procedure was consistent with the Codex guidelines, since it was not appropriate for the risk assessment body to also make the risk management decisions.

101. In April 2003, the United States recalled its previous criticisms that the EC biotechnology policies breached both EC laws and WTO rules. By blocking imports on an unscientific basis, the European Communities was interfering with the use of safe food products that could stem global hunger, improve nutrition and benefit the environment. Canada and Argentina echoed the concerns of the United States. Australia stated it shared many of the concerns raised by the United States and Canada with regard to the lack of science based decision-making.

102. The European Communities reported that on 17 March 2003, the Council of Ministers adopted a common position on biotechnology approval, labelling and traceability and the legislative proposals had now returned to the European Parliament for a second reading under the co-decision procedures. The second reading should be concluded at the beginning of July 2003, which implied that the proposals should be adopted before the end of 2003. Once approved, the labelling and traceability proposals should make it possible for the moratorium on biotechnology approvals to be lifted since EC member States had imposed the moratorium in the absence of a clear regulation on traceability and labelling.

103. The European Communities also indicated that the biotechnology approval procedure envisaged in Directive 2001/18 was now operational and the EU Scientific Committee had given its opinion as to the procedure necessary to conduct a risk assessment. The opinion was available on the internet. Nineteen new or revised submissions had been received since the start of 2003 and the assessments had begun in accordance with the provisions of the Directive. The European Commission was awaiting comments from the Scientific Committee on the risk assessments. The outcome of the risk assessments would depend on the quality and conformity of the scientific data being submitted to determine the effects of GMOs on human health and the environment.

104. In June 2003, the United States, Canada and Argentina reported they had held consultations with the European Communities under the dispute settlement procedures on 19 June 2003, and were now considering further actions.

102. European Communities - Directive 2000/42 on pesticide residues

Raised by:	Côte d'Ivoire
Supported by:	
Dates raised:	July 2001 (G/SPS/R/22, paras. 136-137)
Relevant document(s):	Raised orally
Solution:	Not reported

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

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

Raised by:	Israel
Supported by:	
Dates raised:	July 2001 (G/SPS/R/22, paras. 128-129)
Relevant document(s):	Raised orally
Solution:	Not reported

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

104. European Communities - Import restrictions on soy sauce

Raised by:	Thailand on behalf of ASEAN
Supported by:	Korea
Dates raised:	March 2001 (G/SPS/R/21, paras. 36-39), July 2001 (G/SPS/R/22, paras. 11-14), October 2001 (G/SPS/R/25, para. 106), March 2002 (G/SPS/R/26, paras. 134-136), June 2002 (G/SPS/R/27, para. 132)
Relevant document(s):	G/SPS/N/EEC/100
Solution:	Not reported

107. In March 2001, Thailand, on behalf of ASEAN, raised concerns with an EC regulation which set new maximum levels for lead, cadmium, mercury and 3-MPCD in foodstuffs. ASEAN believed that the EC maximum level of 3-MCPD in soy sauce was too low to be practicable, and constituted an unnecessary barrier to trade. ASEAN asked the European Communities to provide technical information in order to reach a mutually satisfactory solution. Korea asked to be informed about the outcome of bilateral consultations between the European Communities and Thailand. The European Communities stated that several of its member States had detected high levels of 3-MCPD in samples of soy sauce. Recent toxicological studies had indicated that the substance acted as a non-genotoxic carcinogen *in vivo*. The European Communities believed that maximum levels should be set to encourage good manufacturing practices and to protect the health of consumers. A proposed Commission Regulation set such limits, and was currently under examination. Thailand had been informed of the 3-MCPD levels reported in soy sauce from one manufacturer, but had not responded.

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

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

110. In March 2002, the European Communities reported that the Scientific Committee had re-evaluated the potential toxicity of 3-MCPD, and had concluded that the risks were not as high as initially believed. A full evaluation of the toxicity of 3-MCPD was underway, pending receipt of additional information; in particular regarding exposure levels. The results of this study were expected for July 2002, at which time the EC requirement would be re-examined in light of the results of this study as well as of the JECFA review.

111. The representative of Codex noted that the Codex Committee on Food Additives had the previous week discussed the subject of chloropropanols, substances which could occur in hydrolized vegetable proteins and soy sauces. JECFA had determined that the level of chloropropanols could be controlled if the levels of 3-MCPD were limited, and had developed recommended daily intake levels.

On this basis, the Food Additives committee was proceeding to develop maximum residue levels for 3-MCPD for commodities of major trade interest.

112. In June 2002, the European Communities confirmed that 3-MCPD had been re-evaluated and found to be carcinogenic but not genotoxic, so the ALARA ("as low as reasonably achieveable") principle would no longer be applied. However, the European Communities was seeking the necessary information . on exposure of consumers to 3-MCPD and other chloropropanols so that the Scientific Committee could undertake a risk assessment.

105. European Communities - Information on dioxin

Raised by:	None, information provided by the European Communities.
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, paras. 17-22), March 2000 (G/SPS/R/18, para. 19), June 2000 (G/SPS/R/19, para. 9)
Relevant document(s):	G/SPS/GEN/123 and Add.1-4
Solution:	Not reported

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

114. Malaysia expressed disappointment to be receiving information at such a late stage. It would only be in a position to lift its import ban when it was fully satisfied that there was no more danger from EC products. Australia, Canada, Chile, Brazil, South Africa and the United States appreciated the information provided by the European Communities throughout the dioxin crisis. Australia and the United States had notified any action taken with respect to dioxin. Canada had banned Belgian imports, but was reviewing the products and areas covered by the ban. The Philippines indicated that its measures had taken into account the EC measures regarding dioxin, and were being reassessed.

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

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

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

106. European Communities - Measures on food treated with ionizing radiation

Raised by:	United States
Supported by:	
Dates raised:	September 1998 (G/SPS/R/12, paras. 37-38), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/N/EEC/61, G/SPS/GEN/265
Solution:	Not reported

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

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

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

Raised by:	United States
Supported by:	Argentina
Dates raised:	June 1998 (G/SPS/R/11, paras. 50-56), September 1998 (G/SPS/R/12, paras. 35-36), July 2001 (G/SPS/R/25, para. 127)
Relevant document(s):	G/SPS/N/EEC/58, G/SPS/GEN/88, G/SPS/GEN/265
Solution:	Not reported

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

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

its registration requirements to be flexible and not very onerous. Argentina requested a written copy of the EC statement.

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

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

108. European Communities – Restrictions on the importation of fruits and fruit juices

Raised by:	Brazil
Supported by:	Argentina, Bolivia, China, Cuba, Dominican Republic, Jamaica, Uruguay
Dates raised:	November 2002 (G/SPS/R/28, paras. 28-31), April 2003 (G/SPS/R/29, para. 211), June 2003 (G/SPS/R/30, paras. 164-165)
Relevant document(s):	G/SPS/GEN/355, G/SPS/N/EEC/160
Solution:	Not reported

124. Brazil raised concerns regarding the European Communities Directive 2002/71/CE, published on 19 August 2002, which established new maximum levels for dimethoate residues in and on cereals, foodstuffs of animal origin and certain products of plant origin, including fruit and vegetables. Brazil noted that the EC directive would have the effect of banning Brazilian orange juice from the European market and requested the European Communities to review the directive, taking into account all scientific information available. Bilateral discussions held on the previous day had been fruitful and Brazil requested a copy of the EC's scientific studies as soon as possible. Brazil noted that the issue of MRLs for dimethoate would be reconsidered by Codex at its meeting in June 2003, and requested the European Communities to suspend the implementation of this directive pending to a full assessment of the situation. Brazil also requested the European Communities not to apply the same approach in the re-evaluation of 320 active substances that was now underway. Argentina, Bolivia, Cuba, the Dominican Republic, Jamaica, and Uruguay supported the arguments made by Brazil, in particular, the need for scientific justification for maximum residue levels (MRLs), and expressed concern regarding the implications for developing country exports.

125. The European Communities stated that the document put forward by Brazil had not yet been discussed in Brussels. Dimethoate was already under evaluation by the European Communities and was one of the several hundred plant protection products which was being reassessed for its safety to the environment, animal and public health. The decision to establish a limit of analytical detection had not been lightly taken, but the scientific evidence suggested that the existing MRL was inadequate to provide for an appropriate level of health protection. A number of years ago a recommendation had been made to the Codex Committee on Pesticide Residues to withdraw the MRL for dimethoate. Under the circumstances the European Communities had considered it necessary to adopt this measure, although this was not a popular decision because this substance was used by a range of EC growers of citrus and other fruit products, and they were being obliged to withdraw its use. The measure had been notified (G/SPS/N/EEC/160) and that comments had been received and taken into account from a number of countries, including Brazil. The fears expressed by several countries over the impact of the ongoing evaluation of a range of other active substances would be communicated to the appropriate authorities.

126. In April 2003, Brazil stated that it looked forward to a receiving a copy of the EC scientific studies that would serve as the basis for the new European regulation setting MRLs for dimethoate.

127. In June 2003, Brazil noted that a shipment of Brazilian apples had been rejected in Sweden and that this was one example of how it would be affected by the new MRLs. The burden of proof for justification of the new measures was on the European Communities and its present approach was not in accordance with the principles for special and differential treatment. China supported the concerns of Brazil. The European Communities stated that bilateral consultations had been held with Brazil and hoped that the problem would be resolved soon. The underlying problem was that many pesticides and chemical products which were in use had never been properly evaluated. Where no toxicological data existed, the European Communities would use the level of detection. For products for which data was provided, the European Communities would proceed to establish an appropriate maximum residue level.

109. European Communities (Belgium) - Measures regarding canned tuna in oil

Raised by:	Philippines
Supported by:	
Dates raised:	November 1999 (G/SPS/R/17, paras. 87-88), March 2002 (G/SPS/R/26, para. 44)
Relevant document(s):	Raised orally
Solution:	Not reported

128. The Philippines expressed concern regarding a Belgian decision to withdraw from sale Philippine canned tuna in oil based on allegations of contamination with biphenol-A-diglycydyl and biphenol-F-diglycydyl. The European Communities responded that some products had to be withdrawn from sale and offered to pursue the matter on a bilateral basis with the Philippines. In bilateral discussions, Belgium transmitted, for consideration by the Philippines, information that in Belgium's view provided a basis for its action to withdraw the subject products from sale. The Philippines reiterated its objection to this action, which it considered was taken without sufficient legal basis.

110. European Communities (Spain) – Restriction on levels of copper and cadmium in imported squid

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

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

130. In March 1997, the United States recalled the discriminatory nature of the measure. The European Communities explained that although the norm only referred to third countries, in practice it

was recognized by EC member States as well. In addition, the majority of squid imported into Spain came from outside the European Communities. Since Spain had a particularly high consumption of the products in question, this had to be taken into account in addition to WHO recommendations.

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

111. European Communities – Maximum levels for aflatoxins in corn and sampling contaminants in food

Raised by:	Argentina
Supported by:	
Dates raised:	June 2003 (G/SPS/R/30, paras. 32-33, October 2003 (G/SPS/R/31, paras. 52-53)
Relevant document(s):	
Solution:	Not reported

132. Argentina reported that consultations between its authorities and the European Communities had taken place on 2 July concerning EC Regulation 257/02 which imposed new maximum levels for aflatoxins in maize. Argentina considered the new measures to be scientifically unfounded and requested the European Communities to consider less trade restrictive measures and the possibility of special and differential treatment. The European Communities noted that there were considerable health problems with aflatoxins and the difficulties of establishing an appropriate limit. The new regulation would be notified to the Committee before it was applied and interested trading partners would have the opportunity to present their concerns and objections. In response to a question from Egypt, the European Communities clarified that the new measure would apply only to maize.

133. In October 2003, Argentina stated that the MRL for aflatoxin depended on the intended use of products and the levels were not consistent with international recommendations nor based on scientific evidence. However, the new regulation modified the MRL for corn and was less restrictive. Argentina requested a review of the sampling levels along with the scientific justification to support the measure. The European Communities stated that it had conducted scientific research to support the MRLs adopted for corn and that the levels could be met through good agriculture practice. The MRL for corn was established to protect consumer health.

112. European Communities – Notification G/SPS/N/EEC/191 and Add.1 on food and feed controls

Raised by:	United States
Supported by:	Canada
Dates raised:	October 2003 (G/SPS/R/31, paras. 39-41)
Relevant document(s):	G/SPS/N/EEC/191 and Add.1
Solution:	Not reported

134. The United States stated that the notified measure would establish an extensive series of official controls on feed and food to be implemented by 1 January 2005. EC member States' control systems would be harmonized, integrating specific controls at all stages of production in all food and feed sectors. "Control plans" from exporting countries would have to be submitted annually to the European Communities. All exporting countries would have to demonstrate compliance or equivalence to the EC food safety measures for all products to be exported as a precondition for market access. Control plans required information on all legislation, organization of competent

authorities, training of staff, resources available and assurance of equivalence of domestic safety measures. While the United States agreed this approach was appropriate for high risk products such as meat and poultry, it felt that this level of risk management was not appropriate for other types of food for which any identified risks were generally quite low.

135. Canada shared the concerns raised by the United States and noted that it had recently submitted comments to the European Communities. Canada sought more information regarding the requirements for non-EC countries.

136. The European Communities explained that the regulation should facilitate conformity of imported food with EC health standards and principles for checking food stuffs. Written comments received by the 27 July 2003 deadline would be considered by the EC Enquiry Point and Council of Ministers. As for the control plans, much of the requested information was already available on internet sites, i.e., USDA and FDA. The regulation, which was based on Codex recommendations, would facilitate trade through more transparency and the exchange of information on controls or checks for third countries.

Animal Health and Zoonoses

Concerns related to TSEs

113. European Communities – Transitional TSE measures

Raised by:	Canada
Supported by:	United States
Dates raised:	October 2001 (G/SPS/R/25, paras. 5-8)
Relevant document(s):	Raised orally
Solution:	Not reported

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

114. European Communities – Geographical BSE risk assessment

Raised by:	Canada
Supported by:	United States
Dates raised:	July 2001 (G/SPS/R/22, paras. 22-26)
Relevant document(s):	Raised orally
Solution:	Not reported

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

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

115. European Communities – Cosmetics and BSE

Raised by:	Australia
Supported by:	Brazil, United States, Chile
Dates raised:	March 1997 (G/SPS/R/7, paras. 61-62), July 1997 (G/SPS/R/8, paras. 22-24)
Relevant document(s):	G/SPS/GEN/20, G/SPS/N/EEC/43
Solution:	Not reported

140. Australia expressed concern regarding an EC measure specifying that cosmetics containing certain bovine, ovine and caprine tissues etc. should not be placed on the market. This directive did not recognize the animal health status of supplying countries. The European Communities stressed that since BSE surveillance was still under development and since detection was difficult, there was considerable uncertainty surrounding the global prevalence of BSE. All comments received by the deadline would be taken into account, and the regulation would enter into force on 1 July 1997. In July 1998, the United States stressed that the measure would reduce or eliminate US exports of tallow derivatives, soaps and cosmetics. The European Communities clarified that in light of WHO recommendations, measures had to be taken to reduce the risk of transmission of TSEs to humans

through the food or feed chain, pharmaceuticals or cosmetics. Regarding BSE-freedom, the European Communities was not prepared to recognize any country as BSE-free, taking into account the difficulties of certifying such a status.

116. European Communities – Rules on "specified risk materials" in products of animal origin

Raised by:	United States
Supported by:	Argentina, Australia, Brazil, Canada, Chile, Colombia, Czech Republic, Mexico, New Zealand, Uruguay, Switzerland
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, paras. 10-14), March 1998 (G/SPS/R/10, paras. 13-19), June 1998 (G/SPS/R/11, paras. 34-38), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GEN/36, G/SPS/GEN/45, G/SPS/GEN/67, G/SPS/GEN/265
Solution:	Not reported

141. In October 1997, the United States raised concerns with Decision 97/534 EC banning the use of certain specified risk materials, which might cause international shortages of needed medical products and have a major restrictive impact on trade in tallow and derivatives, gelatine, pharmaceuticals and many food products. This ban seemed to be more restrictive than necessary to achieve its public health objectives, especially as it applied to the United States and other regions where BSE was not known to exist. The European Communities indicated that since scientific studies had shown that its previous measures might not be sufficient, it had raised its level of protection. Members who considered themselves to present no risk with regard to TSEs could present an application for examination by the EC Scientific Committee. Argentina indicated that in its view, measures which failed to distinguish between countries infected with BSE and countries not infected were contrary to the OIE recommendations and the SPS Agreement. He distributed copies of a BSE risk analysis.[2]

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

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

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

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

117. European Communities – Gelatin imports

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

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

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

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

148. In March 2001, the United States indicated that since May 2000, EC and US authorities had been discussing the continuation of US gelatin shipments based on the equivalence of US and EC safety systems. Despite continuing efforts of US regulatory authorities and industry, the European Communities had not agreed to accept equivalence based on export certificates issued by US authorities. As a result, there had been no exports of US food grade gelatin to the European Communities since June 2000. The United States appreciated EC efforts to review information, and urged the Commission to accept the equivalence of US certificates. The European Communities stated that both sides had a clear idea of the problems involved, which were primarily of a judicial nature. The European Communities was proposing flexible solutions which both parties might find acceptable.

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

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

118. European Communities (France) – Certification requirements for pet food

Raised by:	United States
Supported by:	Chile
Dates raised:	March 1997 (G/SPS/R/7, paras. 7-8), July 1997 (G/SPS/R/8, paras. 20-21), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GEN/18, G/SPS/GEN/265
Solution:	Not reported

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

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

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

119. European Communities - Notification G/SPS/N/EEC/192 on transitional BSE measures

Raised by:	United States
Supported by:	
Dates raised:	April 2003 (G/SPS/R/29, paras. 97-98))
Relevant document(s):	G/SPS/N/EEC/192
Solution:	Not reported

154. The United States noted that according to Regulation 999/2001, the categorization of countries with regard to risk of transmissible spongiform encephalopathies (TSEs) would be made within six months of submission of the information. Although, the newly notified measure extended the transitional measure until 30 June 2005, the United States was concerned whether this was sufficient time for the European Communities to complete the classifications. There was no scientific justification for applying BSE-related restrictions on products from the United States.

155. The European Communities explained that the notification concerned an amendment to Article 23 of EC Regulation 999/2001 establishing rules for the eradication, prevention and control of certain TSEs. It included BSE and all TSEs. The amendment extended transitional measures established under Article 23 of this regulation. The regulation provided rules to determine the BSE status of particular countries which conditioned the application of measures covering the import of certain animals and animal products. Until the status determination was made, transitional measures were applied and were to remain in force until 30 June 2003. An assessment of the cases began at the end of 2001. However, modification of the categorization criteria was necessary to obtain a status reflecting actual risk. These criteria were taken from the international code of OIE but it appeared that the OIE was not ready to propose a list of BSE-free countries. Likewise, in the European Communities, scientific risk assessments for all countries were not yet finished, and the EC Scientific Committee had adopted opinions for only around one-third of countries asking for a determination of their status. Therefore, the transitional measures were being prolonged by two years until 1 July 2005. The European Commission would use this period to advance the work in the OIE on determining the BSE and TSE status of countries and complete the scientific risk assessments. The European Communities was examining the substantial documentation submitted by the United States in January 2003, and would report to the United States on the results of the risk assessment as soon as possible.

Concerns related to FMD

120. European Communities – EC Directive 2001/661/EC on foot and mouth disease

Raised by:	South Africa
Supported by:	
Dates raised:	April 2003 (G/SPS/R/29, paras. 38-39)
Relevant document(s):	G/SPS/GEN/373
Solution:	Not reported

156. South Africa stated that its concerns were detailed in G/SPS/GEN/373. South Africa and Namibia are identified as zones free from FMD without vaccination by the OIE. EC Directive 2001/661 recognized the free-zone status, allowing the import of fresh meat from South Africa except for areas within the FMD control zone of South Africa. However, Directive 2001/661 required supplementary guarantees for the export of ovine and caprine meat from the FMD free zones without vaccination and was inconsistent with Article 2.1.120 of the Terrestrial Animal Health Code of the

OIE. Article 2.1.2.20 does not require the deboning of meat if the meat originates from FMD free countries or zones where vaccination is not practiced.

157. The European Communities explained that Council Directive 72/462 differentiated between various types of FMD. The Directive provided that the import of fresh meat from regions which were FMD free without vaccination but where vaccination against SAT or Asiat 1 viruses was practiced in another region of the country could only be authorized under certain conditions. One of the conditions was that the meat be mature, de-boned, with lymph nodes removed and that importation take place only three weeks after slaughter. These conditions applied to South Africa due to the presence of SAT in a part of South Africa even though certain areas were officially FMD-free without vaccination. The EC legislation, dating from 1972, was to be updated as SAT was no longer considered differently from other virus strains. This would occur with the entry into force of Council Directive 99/2002 on 1 January 2005. However, the European Communities was concerned that there had been four outbreaks of FMD in Namibia originating from Zimbabwe, where there were hundreds of cases. In these circumstances, it was prudent to authorize only the importation of de-boned, mature meat. Once the new Directive was in force, the European Communities would review its measure in light of the FMD situation in South Africa and its neighbouring countries.

Other Animal Health Concerns

121. European Communities - Ban on antibiotics in feed

Raised by:	United States
Supported by:	Australia, Canada
Dates raised:	July 1999 (G/SPS/R/15, paras. 26-29)
Relevant document(s):	Raised orally
Solution:	Not reported

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

122. European Communities – Salmonella-related restriction on fishmeal imports

Raised by:	Chile and Peru
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, paras. 48-50)
Relevant document(s):	Raised orally
Solution:	Not reported

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

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

123. European Communities – Notification G/SPS/N/EEC/190 on live animals and animal products

Raised by:	Australia
Supported by:	
Dates raised:	June 2003 (G/SPS/R/30, paras. 68-69)
Relevant document(s):	G/SPS/N/EEC/190
Solution:	Not reported

161. Australia stated that the notified measure would affect its alpaca exports to EC member States although Australia had been free from blue tongue for more than a decade, as recognized by many countries. Australia had submitted scientific evidence to the European Communities on several occasions and requested an update on this issue.

162. The European Communities clarified that the new notification was not due to a new regulation but merely a result of a simplification exercise which did not address Australia's situation. The European Communities indicated that it would respond to Australia's request directly.

124. European Communities – Notification G/SPS/N/EEC/198 on animal health conditions and certification requirements for live fish

Raised by:	Australia
Supported by:	
Dates raised:	June 2003 (G/SPS/R/30, paras. 70-71)
Relevant document(s):	G/SPS/N/EEC/198
Solution:	Not reported

163. Australia indicated that this new measure could affect its carp exports to EC member States. The United Kingdom had rejected live fish from Australia due to concerns about the existence of an unknown carrier state. Australia had suggested prior disinfection as a possible solution and had requested the risk assessment on which the measure was based, but received no response. This requirement was not in line with OIE standards.

164. The European Communities replied that the time period for replying to comments had not yet expired. The European Communities believed that the measures could be considered standard measures and that no risk assessment was necessary, although it was prepared to discuss the issue bilaterally with interested trading partners.

Plant Health

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

Raised by:	Ecuador, Israel
Supported by:	Kenya
Dates raised:	October 2001 (G/SPS/R/25, paras. 45-48), November 2002 (G/SPS/R/28, para. 179), April 2003 (G/SPS/R/29, paras. 94-96)
Relevant document(s):	G/SPS/N/EEC/131, G/SPS/GEN/278
Solution:	Not reported

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

166. In November 2002, Israel expressed concern with EC Regulation 2002/36/EEC. While Israel appreciated that the European Communities had modified and delayed the entry into force of the proposed revision until April 2003, Israel was of the view that until the European Communities had finalized its pest risk assessment the new regulation should be a temporary, not a permanent, measure. Israel was further concerned that the European Communities was not taking measures to control pests already established in the EC member States from spreading to new areas, and requested consultations with the European Communities and other interested Members. Kenya also expressed hope that a solution would be found to the problem. The European Communities replied that the question was complex and went beyond a simple matter of the use of the precautionary principle. The ambitious pest eradication measures of the European Communities should not be undermined by imports. The European Communities agreed to bilateral consultations with Israel and Kenya.

167. In April 2003, Israel noted that EC notification G/SPS/N/EEC/131 concerned an amendment to regulation 2000/29/EC which came into force on 1 April 2003, and might have significant effects on the export of plant products from a number of Members. At bilateral consultations with the European Communities in March 2003, Israel expressed concerns regarding differentiation between European and non-European varieties of *Bemisia tabaci* and the existence of the non-European variety in some EC member States. Israel was in the process of analyzing the two pest risk analyses produced by the European Communities. Kenya stated it shared Israel's concerns with regard to unnecessary delays and adverse effects on cut flowers exports. Bilateral consultations with the European Communities on technical assistance for capacity building had not progressed as desired, although Kenya was still hopeful of an amicable solution.

168. The European Communities recalled that the measures had been enacted after constant interceptions of pests on products like fresh flowers led EC member States to review their protective measures. The proposed measures were notified to the WTO on 19 July 2001 and were to take effect on 1 January 2002. However, the European Communities had postponed entry into force until 1 April 2003 after consideration of the difficulties faced by certain exporting countries. Nevertheless, the European Communities had a responsibility to maintain its appropriate level of protection and could not indefinitely postpone the implementation of these measures. The European Communities

had taken all necessary measures to avoid any breakdown to trade and offered to hold bilateral consultations on the matter.

126. European Communities - Measures on imports of Egyptian potatoes

Raised by:	Egypt
Supported by:	
Dates raised:	July 2001 (G/SPS/R/22, paras. 125-126)
Relevant document(s):	Raised orally
Solution:	Not reported

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

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

Raised by:	Canada
Supported by:	Chile, Japan, Korea, United States
Dates raised:	November 2000 (G/SPS/R/20, paras. 33-35)
Relevant document(s):	G/SPS/N/EEC/93
Solution:	Not reported

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

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

on the 1 January 2000 date as initially proposed, and that bilateral and multilateral consultations would continue.

128. European Communities – Protected zones

Raised by:	Uruguay
Supported by:	Chile, Mexico, South Africa
Dates raised:	March 1997 (G/SPS/R/7, para. 60)
Relevant document(s):	Raised orally
Solution:	Not reported

172. Uruguay expressed concern about an EC decision to eliminate the criteria for protected zones within the European Communities, as this might result in a strengthening of phytosanitary requirements for the whole Community. This could also have negative consequences for citrus fruit exports from Chile. Delegations requested a clarification of the scientific basis for this proposal. The representative of the European Communities indicated he would forward the concerns to the relevant authorities. He clarified that according to the policy, access to the European Communities would depend on the conditions in the country of origin.

129. European Communities (Spain)- Phytosanitary regulations

Raised by:	Argentina
Supported by:	
Dates raised:	October 2001 (G/SPS/R/25, paras. 97-98), March 2002 (G/SPS/R/26, para. 42)
Relevant document(s):	Raised orally
Solution:	Not reported

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

174. In March 2002, Argentina stated that certain points had been cleared up in bilateral consultations with the European Communities and Spain and that any further progress would be reported to the Committee.

HONDURAS

CONCERNS RELATED TO MEASURES MAINTAINED BY HONDURAS

Animal Health and Zoonoses

Other Animal Health Concerns

130. Honduras – Import restrictions on chicken meat imports

Raised by:	Costa Rica
Supported by:	Argentina, Chile, Thailand,
Dates raised:	November 2002 (G/SPS/R/28, paras. 22-27), April 2003 (G/SPS/R/29, paras. 63-64)
Relevant document(s):	G/SPS/GEN/347/Rev.1., G/SPS/GEN/362, G/SPS/GEN/363, G/SPS/N/HND/3, G/SPS/GEN/347/Add.1
Solution:	Not reported

175. Costa Rica reported that in March 2002, Honduras had applied import restrictions on poultry meat from Costa Rica, admitting imports of poultry meat only from countries that were free from avian influenza, avian infectious laryngotracheitis, Newcastle disease and avian salmonellosis. Costa Rica recognized Honduras' efforts to improve its sanitary situation, but questioned whether the measure was scientifically justified and whether Honduras had carried out a relevant risk analysis. In this regard, it would be to the benefit of all if Honduras shared its scientific evidence with other members of the organization. Honduras was trying to reverse the burden by insisting that Costa Rica demonstrate its disease free status regarding these four avian diseases. Costa Rica's avian health status was in line with the parameters recognized by the OIE, and its poultry meat exports did not constitute a risk for the avian health status of Honduras. Costa Rica requested Honduras to respond to the questions contained in G/SPS/GEN/347/Rev.1 and requested that Honduras lift the measure. Argentina, Chile and Thailand supported the concerns expressed by Costa Rica. Chile requested information from the OIE on this issue, in particular concerning standards for the transmission of different avian diseases through fresh poultry meat. Chile also requested a copy of the risk assessment carried out by Honduras.

176. Honduras explained the background to his country's decision to impose restrictions on chicken meat imports from Costa Rica. The Agriculture and Livestock Secretariat had developed a national programme for the prevention, control and eradication of avian diseases, including avian influenza, avian infectious laryngotracheitis, Newcastle disease and avian salmonellosis. This programme had been notified to all WTO members (G/SPS/N/HND/3). In October 2001, Honduras had notified that it had achieved free status for the four avian diseases mentioned above. Honduras had requested that Costa Rica, as well as other countries, provide the necessary documentation that guaranteed equivalence between the exporting country's avian health status, as well as access for technical experts to carry out the relevant inspections. His authorities had not been able to determine that the poultry health programmes of Costa Rica were equivalent because they had been unable to carry out the relevant inspections and obtain the necessary technical information requested from Costa Rica. The scientific evidence requested by Costa Rica was contained in the OIE Bulletin, N°6, pages 810 to 815, and Honduras welcomed the updating of standards by the OIE.

177. The representative of the OIE stated that OIE standards existed for avian infectious laryngotracheitis, avian salmonellosis, and Newcastle disease, and for the highly pathogenic form only of avian influenza. The OIE standards for avian infectious laryngotracheitis and avian salmonellosis contained recommendations only for live birds, for day-old chicks, and for hatching eggs but no recommendations for poultry meat. In other words, at present there were no official OIE

standards for poultry meat for these two diseases, however these chapters had not been reviewed for some time. The lack of a standard concerning poultry meat could mean either that there were no risks associated with trade in poultry meat for these diseases, or that the OIE had not come out with a recommendation on poultry meat which meant that trading partners would be expected to negotiate between themselves using risk analysis in order to reach science based conclusions. In the absence of an official OIE standard, the OIE had replied to a request from the Director of Animal Health in Costa Rica that there was no scientific evidence indicating that avian infectious laryngotracheitis or avian salmonellosis could be transmitted through poultry meat. This was not an official OIE standard but a scientific opinion from the OIE. If there was sufficient trade disruption due to the lack of an OIE standard for poultry meat for these diseases, the OIE would include updating these standards in its future work programme.

178. In April 2003, Costa Rica noted that bilateral consultations were progressing (G/SPS/GEN/347/Add.1). Honduras reported that after the November 2002 meeting of the SPS Committee, an agreement was reached on how to progress towards re-establishing trade of poultry meat and products from Costa Rica.

INDIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Animal Health and Zoonoses

Concerns related to TSEs

131. India – Import restrictions on bovine semen

Raised by:	Canada, European Communities
Supported by:	United States
Dates raised:	March 1999 (G/SPS/R/14, para. 19), (G/SPS/R/18, paras. 23-25), June 2000 (G/SPS/R/19, paras. 24-25), November 2000 (G/SPS/R/20, paras. 18-22), March 2001 (G/SPS/R/21, paras. 40-43), July 2001 (G/SPS/R/22, para. 51), April 2003 (G/SPS/R/29, paras. 76-77)
Relevant document(s):	G/SPS/GEN/113
Solution:	Change of relevant regulations and expected solution reported in July 2001.

179. In March 1999, the European Communities indicated that bilateral contact with India regarding import restrictions on bovine semen had not been successful, and submitted a list of specific questions. In March 2000, the European Communities reported that no information had been received from India, although there had been some bilateral and multilateral contacts. India presented some information to the EC delegate at that time.

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

181. In June 2000, Canada informed the Committee that bilateral consultations had failed to resolve the matter, and that India continued to restrict Canadian exports of bovine semen despite (i)

Canada being BSE-free, (ii) OIE confirmation that BSE was not transmissible through semen, (iii) the OIE specifically not calling for restrictions on trade in bovine semen, and (iv) the absence of a risk assessment to justify India's ban on bovine semen. Canada asked that India remove this restriction. India noted that recent bilateral consultations had been helpful and that efforts were being made to find a solution to the dispute.

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

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

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

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

186. In July 2001, Canada reported that it was engaged in bilateral consultations under the SPS Agreement with India. There had been certain positive developments and Canada hoped to quickly resolve the issue. India indicated that the relevant regulations had been changed, and that the changes would soon be notified.

187. In April 2003, Canada stated that although a successful conclusion had been reported to the Committee in July 2001, a further problem had been encountered and an import licence request was rejected by India due to some apparent connection between BSE and bovine semen. Canada questioned the scientific basis for the action and stated that the OIE's recommendations supported Canada's view. Canada requested that India remove this restriction. India agreed to convey Canada's concerns to the appropriate authorities.

Other Animal Health Concerns

132. India – Restrictions on imports of horses

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

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

INDONESIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDONESIA

Food Safety

133. Indonesia – Ban on hormones in animal production

Raised by:	United States
Supported by:	Australia, Canada, Mexico
Dates raised:	November 2002 (G/SPS/R/28, paras. 83-86)
Relevant document(s):	G/SPS/N/IDN/17
Solution:	Not reported

189. The United States indicated that the implementation of this regulation would effectively ban the use of several growth hormones and there was no scientific evidence to support this measure. US regulatory agencies had been conducting research since the 1950s on the use and safety of approved growth hormones. A concensus had been reached regarding the safety of these hormones if used with good veterinary practices. The United States requested Indonesia to put forward scientific data in support of its proposed ban. In the event that no scientific data existed, the United States requested Indonesia to reconsider this proposal as soon as possible.

190. Canada, supported by Australia and Mexico, expressed concerns regarding Indonesia's apparent import ban on live cattle and beef derived from cattle treated with synthetic growth hormones. A number of questions surrounding the risk-based nature of these measures were highlighted, particularly given the precedence established in the WTO regarding measures prohibiting growth hormones. They requested Indonesia to indicate whether it had conducted a risk assessment and to provide the details of the risk based rational for its measures. The European Communities noted that there was a WTO finding on the issue and that it intended to bring its legislation into compliance with the ruling of the panel. Much work had been undertaken in this regard and the European Communities expected to soon be able to ensure that the EC ban was fully compatible with the WTO.

191. Indonesia noted that his country had not yet implemented the regulation, but had notified to Members the fact that they were going to amend the decree concerning classification of veterinary drugs. Although Indonesia had not yet banned hormone growth promoters, there were some reasons to believe that growth hormones could be hazardous to human health, due in part to the fact that developed countries' consumption patterns were different to those in Indonesia. Indonesia further noted that the use of hormone growth promoters in poultry had been banned internationally.

Plant Health

134. Indonesia - Fresh fruit and vegetables

Raised by:	Australia, United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 22)
Relevant document(s):	G/SPS/N/IDN/2
Solution:	Not reported

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

ISRAEL

CONCERNS RELATED TO MEASURES MAINTAINED BY ISRAEL

Animal Health and Zoonoses

Concerns related to TSEs

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

Raised by:	European Communities
Supported by:	Switzerland
Dates raised:	November 1998 (G/SPS/R/13, paras. 35-36)
Relevant document(s):	G/SPS/N/ISR/2
Solution:	Not reported

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

JAPAN

CONCERNS RELATED TO MEASURES MAINTAINED BY JAPAN

Animal Health and Zoonoses

Concerns related to FMD

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

Raised by:	Indonesia
Supported by:	
Dates raised:	July 2001 (G/SPS/R/22, paras. 32-35), October 2001 (G/SPS/R/25, paras. 24-25), November 2002 (G/SPS/R/28, paras. 185-186), June 2003 (G/SPS/R/30, paras. 57-58)
Relevant document(s):	G/SPS/GEN/266, Annex 1, G/SPS/GEN/240
Solution:	Not reported

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

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

196. In November 2002, Indonesia noted that the Japanese animal health inspection team had carried out an FMD risk assessment in Indonesia in June 2002. Indonesia recalled that the OIE had recognized the country as FMD free without vaccination and requested Japan to take this into consideration. Japan stated that the issue could not be resolved until the risk assessment was completed. Further data had been sought from Indonesia in order to finalize the risk assessment.

197. In June 2003, Indonesia raised concerns that Japan continued to ban imports of sugar cane top from Indonesia and as a result the Indonesian industry had collapsed. Japan had not acknowledged that Indonesia was free from FMD despite the fact the Indonesia's FMD-free status had been regularly confirmed by the OIE. Indonesia welcomed further Japanese missions to Indonesia but requested Japan to specify more clearly the issues of their concern. Japan responded that technical consultations had been held and more experts had been dispatched in June 2002 in order to provide Japan with additional scientific information. Further scientific assessments would now be carried out and Japan looked forward to continued consultations.

137. Japan - Measures regarding FMD

Raised by:	Argentina, European Communities
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, para. 46), March 2002 (G/SPS/R/26, paras. 15-17)
Relevant document(s):	G/TBT/Notif.97.357
Solution:	Not reported

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

199. In March 2002, the European Communities stated that slow administrative procedures had caused unjustified disruptions in the trade of several EC member States with Japan. In spite of the formal recognition by the OIE of EC member States as FMD free, Japanese procedures for recognizing the FMD free status of these countries dragged on. The European Communities noted that they had done everything possible to meet the Japanese requirements and expressed disappointment that Japan would not begin the re-opening process until after the official FMD free declaration by the OIE on 19 September 2001. The EC noted that the re-opening process itself was extremely cumbersome and combined with delays in organizing a Japanese inspection mission, the effect was unnecessary delay in reopening of the market. Furthermore, the European Communities felt that the use of questionnaires was only justified at the time of the outbreak, and that import requirements should be made clear from the outset. The representative of the European Communities requested an indication of when Japan would recognize the EC FMD disease-free status. Japan noted that the risk assessment for FMD had been delayed due to late responses from France, Ireland and the Netherlands.

Plant Health

138. Japan - Plant quarantine regulations

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 26), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/N/JPN/19, G/SPS/GEN/265
Solution:	Not reported

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

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

139. Japan - Amendment of the Japanese Plant Protection Law

Raised by:	United States
Supported by:	Australia, Canada, Chile, European Communities, New Zealand, Philippines on behalf of ASEAN, Uruguay
Dates raised:	November 1998 (G/SPS/R/13, paras. 31-34), November 1999 (G/SPS/R/17, para. 82), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GEN/100, G/SPS/N/JPN/37, G/SPS/GEN/265
Solution:	Not reported

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

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

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

140. Japan – Fumigation standards

Raised by:	United States
Supported by:	
Dates raised:	April 2003 (G/SPS/R/29, paras. 31-32)
Relevant document(s):	Raised orally
Solution:	Not reported

205. The United States reported that a newly adopted measure by Japan's Ministry of Agriculture, Fisheries and Food prohibited the re-fumigation of fruit or rice which had previously undergone fumigation in the United States. Japan had not notified this measure and the United States requested clarification from Japan on the objective of the measure, its scope, implementation, enforcement and projected trade effects, as well as a delay in its implementation.

206. Japan stated that it would transmit the United States' concern to its authorities and respond in due course.

Other Concerns

141. Japan - Notification G/SPS/N/JPN/9 on uses of living modified organisms

Raised by:	Australia
Supported by:	United States
Dates raised:	June 2003 (G/SPS/R/30, paras. 72-74)
Relevant document(s):	G/SPS/N/JPN/9
Solution:	Not reported

207. Australia indicated that Japan's notification regarding its proposed draft law on the conservation and sustainable use of living modified organisms raised a number of concerns. Australia was a major grain exporter and was especially interested in the documents which should accompany shipments. Japan had not responded to Australia's query. The United States was also concerned how Japan intended to implement the Cartagena Biosafety Protocol and in particular the documentation requirements.

208. Japan replied that it had ratified the Cartagena Biosafety Protocol on 10 June 2003 and its measures were consistent with the agreement. Japan would shortly provide responses to the questions it had received from Australia.

142. Japan and Korea - Translation of regulations

Raised by:	Argentina
Supported by:	Thailand
Dates raised:	October 1996 (G/SPS/R/6, para. 26)
Relevant document(s):	G/SPS/N/JPN/1, G/SPS/N/KOR/29, G/SPS/N/KOR/20, G/SPS/N/KOR/31
Solution:	Not reported

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

REPUBLIC OF KOREA

CONCERNS RELATED TO MEASURES MAINTAINED BY THE REPUBLIC OF KOREA

Animal Health and Zoonoses

Concerns related to FMD

143. Korea – Import restrictions on beef

Raised by:	Argentina
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, paras. 13-14)
Relevant document(s):	G/SPS/GEN/109 and G/SPS/GEN/130
Solution:	Not reported

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

144. Korea – Notification G/SPS/N/KOR/49 on transboundary movement of living modified organisms

Raised by:	Australia
Supported by:	United States
Dates raised:	June 2003 (G/SPS/R/30, paras. 72-74)
Relevant document(s):	G/SPS/N/KOR/49
Solution:	Not reported

211. Australia indicated that Korea's notification on the transboundary movement of living modified organisms raised a number of concerns. Australia was a major grain exporter and was especially interested in the documents which should accompany shipments. Korea had responded to Australia's query, and Australia was examining this response. The United States was also concerned how Korea intended to implement the Cartagena Biosafety Protocol and in particular the documentation requirements.

212. Korea stated that it was acting in line with the transparency requirements and would continue to do so.

MEXICO

CONCERNS RELATED TO MEASURES MAINTAINED BY MEXICO

Animal Health and Zoonoses

Issues related to FMD

145. Mexico - Import restrictions on beef

Raised by:	Argentina
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, para. 12)
Relevant document(s):	G/SPS/GEN/109 and G/SPS/GEN/129
Solution:	Not reported

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

146. Mexico – Restrictions on Austrian Products

Raised by:	European Communities
Supported by:	
Dates raised:	April 2003 (G/SPS/R/29, paras. 36-37), June 2003 (G/SPS/R/30, para. 42)
Relevant document(s):	Raised orally
Solution:	Not reported

214. The European Communities stated that France, Ireland, the Netherlands and the United Kingdom had officially regained their OIE FMD-free status without vaccination after the 2001 outbreak. However, Mexico continued trade restrictions against Austrian animal products, despite the fact that Austria had not had a FMD outbreak since 1991. Austria had applied to be recognized as FMD-free by the Mexican authorities. Mexico indicated that Austria failed to meet certain requirements to be recognized as FMD-free and encouraged the Austrian authorities to complete a second questionnaire requesting more details.

215. In June 2003, the European Communities reported that bilateral consultations had been held, and Mexico confirmed that it expected the issue to be resolved soon.

PANAMA

CONCERNS RELATED TO MEASURES MAINTAINED BY PANAMA

Food Safety

147. Panama - Restrictions on milk powder imports

Raised by:	European Communities
Supported by:	
Dates raised:	November 2000 (G/SPS/R/20, paras. 15-16), July 2001 (G/SPS/R/22, para. 135)
Relevant document(s):	G/SPS/GEN/220
Solution:	Not reported

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

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

Animal Health and Zoonoses

Other Animal Health Concerns

148. Panama's restrictions on food products

Raised by:	European Communities
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 195-196)
Relevant document(s):	
Solution:	Not reported

218. The European Communities stated that Panama had instituted a range of severe measures on imports of animal products. Although the law was intended to address risks related to FMD, BSE, Newcastle disease and other exotic diseases, the European Communities considered the law to be disproportionate and not science-based. In addition, the measure had not been notified. Panama indicated that it hoped to be able to provide a prompt response.

Other Concerns

149. Panama's import licenses for agricultural products

Raised by:	Canada
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, para.26)
Relevant document(s):	Raised orally
Solution:	Not reported

219. Canada stated that high level meetings were underway regarding the automaticity of Panama's import licensing procedures. Panama stated that Canada's concerns were being considered by the appropriate authorities.

POLAND

CONCERNS RELATED TO MEASURES MAINTAINED BY POLAND

Plant Health

150. Poland – Restrictions on wheat and oilseeds

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, paras. 13-14), November 1998 (G/SPS/R/13, para. 27), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GEN/265
Solution:	Not reported

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

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

ROMANIA

CONCERNS RELATED TO MEASURES MAINTAINED BY ROMANIA

Food Safety

151. Romania – SPS measures on animal products

Raised by:	Moldova
Supported by:	China
Dates raised:	June 2002 (G/SPS/R/27, paras. 35-37)
Relevant document(s):	G/SPS/GEN/334
Solution:	Not reported

222. Moldova indicated that Romania had begun to impose EC requirements on imports of meat and animal products although Romania did not meet these requirements domestically (G/SPS/GEN/334). As a result, meat, milk and egg exports from Moldova were in effect banned from the Romanian market, which normally absorbed about 80 per cent of Moldova agricultural exports. Romania had not provided any scientific justification for its measure. Its failure to notify the measure meant that exporters had not had any time to adapt to the new requirements. China expressed support for the concerns expressed by Moldova and urged Romania to review its measures in this area.

223. Romania argued that the measure in question was a result of its harmonization with the *acquis communautaire* of the European Union, and was necessary to ensure consumer protection. Romania stated that this was not a new SPS measure, so it had not been notified. Nonetheless, the Romanian Ministry of Agriculture was considering ways to address the difficulties posed to Moldova from its implementation.

SOUTH AFRICA

CONCERNS RELATED TO MEASURES MAINTAINED BY SOUTH AFRICA

Animal Health and Zoonoses

Concerns related to TSEs

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

Raised by:	European Communities
Supported by:	
Dates raised:	March 1998 (G/SPS/R/10, paras. 32-33), September 1998 (G/SPS/R/12 and Corr.1, paras. 19-21)
Relevant document(s):	G/SPS/N/ZAF/2, G/SPS/GEN/95
Solution:	Not reported

224. In March 1998, the European Communities noted that the South African ban on beef imports applied to all EC member States. This was unjustified in light of measures taken at EC and national level in countries were BSE cases had occurred. In addition, South African requirements were not in accordance with OIE standards. South Africa stressed that the European Communities were a major supplier of meat to South Africa, and that South Africa had no interest in having consumers consider

EC meat as unsafe. However, South Africa wanted to maintain its BSE-free status, and protect human and animal health. South Africa invited the European Communities to provide written comments.

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

Concerns related to FMD

153. South Africa – Restrictions on beef and pork

Raised by:	Brazil
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras 19-20), November 2002 (G/SPS/R/28, para. 176)
Relevant document(s):	Raised orally
Solution:	Imports of meat and pork from Brazilian regions free of FMD authorized. Problems remaining concerning administrative procedures for meat products.

226. Brazil stated that in February 2002, South Africa had suspended imports of beef and pork from Brazil, because FMD vaccination was practised there. South Africa's import ban was not based on the OIE standards nor on scientific evidence or risk assessment nor had the measure been notified. Brazil requested South Africa to lift the ban and accept the risk mitigation procedures established by the OIE. South Africa indicated that they were committed to bilateral consultations with a view to find a quick solution to the problem. In November 2002, Brazil reported that South Africa had authorized imports of meat and pork from Brazilian regions free of FMD. Some difficulties remained regarding administrative procedures for meat products, but were expected to be resolved soon.

TRINIDAD AND TOBAGO

CONCERNS RELATED TO MEASURES MAINTAINED BY TRINIDAD AND TOBAGO

Animal Health and Zoonoses

Concerns related to FMD

154. Trinidad and Tobago - Restrictions on imports of pork sausages and other pork products, fresh, cured or salted

Raised by:	Argentina
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 32-34), April 2003 (G/SPS/R/29 paras. 65-66), June 2003 (G/SPS/R/30, paras. 45-46), October 2003 (G/SPS/R/31, paras. 31-32)
Relevant document(s):	Raised orally
Solution:	Not reported

227. Argentina reported that the health authorities from Trinidad and Tobago had provided two responses regarding import requirements for Argentine pork products, fresh cured or salted. The first response indicated that imports of Argentine pork products were currently banned because of the FMD outbreak that had occurred in 2001, and that imports would not be able to resume until the health status of Argentina changed to that of a country free of FMD without vaccination. The second response stated that imports of pork products were allowed only from those countries that had FMD free status without vaccination for at least three years before the date of export These requirements were stricter than the OIE Animal Health Code, lacked a scientific basis and were not proportionate to the objectives pursued. Argentina a lifting of the ban and copies of the scientific evidence that justified the measure..

228. Trinidad and Tobago indicated that the issue of importation of Argentine pork products had been the subject of ongoing bilateral consultations. As a member of the Caribbean Community (CARICOM), Trinidad and Tobago adhered to a regional policy for the importation of meat and meat products according to which, in the event that an exporting country had experienced an FMD outbreak, imports would only be allowed after disease-free status had been achieved without vaccination. The regional decision reflected consensus among member States. These requirements were transparent and applied in an equitable manner to all countries that had experienced FMD outbreaks. Trinidad and Tobago reaffirmed the country's willingness to continue the bilateral process.

229. In April 2003, Argentina reported that despite the willingness of Trinidad and Tobago to engage in bilateral consultations, no progress had yet been achieved at the technical level. Trinidad and Tobago explained that the OIE Code stated that affected products should not be accepted from vaccinated animals. Re-opening of markets was based on consensus among CARICOM members. Accordingly, Argentina had been advised that the matter should be pursued through the CARICOM Secretariat, which Argentinal had done. CARICOM was committed to finding a mutually agreeable solution and had convened a meeting of the region's chief veterinary officers to discuss the matter on 7-8 April 2003. It was expected that the matter would be fully resolved at the time.

230. In June 2003, Argentina indicated that its authorities had provided Trinidad and Tobago the information agreed upon after the last Committee meeting. CARICOM was committed to sending a technical mission to Argentina with the aim of accepting Argentine exports. Trinidad and Tobago confirmed that a risk assessment mission was expected to take place within the next two months.

231. In October 2003, Argentina reported that since the last meeting, its authorities had provided information to Trinidad and Tobago on the foot-and-mouth disease status of Argentina. However, a visit by three veterinarians from the CARICOM to dairy factories and sausage production plants had been cancelled due to a new outbreak of FMD. The representative of Trinidad and Tobago clarified that Argentina had postponed the trip, scheduled for 8-12 September, due to the appearance of an isolated case of FMD. CARICOM had yet to be advised by Argentina of new dates for the visit. Trinidad and Tobago stated that its restriction would not be removed until the risk assessment was completed.

TURKEY

CONCERNS RELATED TO MEASURES MAINTAINED BY TURKEY

Animal Health and Zoonoses

Concerns related to FMD

155. Turkey – Import ban on livestock

Raised by:	United States, Hungary
Supported by:	Australia, European Communities, New Zealand, Uruguay
Dates raised:	June 1998 (G/SPS/R/11, para. 33), September 1998 (G/SPS/R/12, paras. 7-10), June 2000 (G/SPS/R/19, paras. 12-14), July 2001 (G/SPS/R/22, para. 127), October 2001 (G/SPS/R/25, para. 33), April 2003 (G/SPS/R/29, paras. 205-206), June 2003 (G/SPS/R/30, para. 67)
Relevant document(s):	G/SPS/GEN265
Solution:	The United States reported in July 2001 that its concerns were resolved. Hungary's concerns are outstanding.

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

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

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

235. In April 2003, Hungary again raised concerns over the on-going restrictions on imports of live cattle and beef maintained by Turkey. According to the OIE, Hungary had been free from FMD for nearly 20 years. Hungarian live cattle and beef was also free from BSE. Hungary had questioned this measure several times bilaterally and in the SPS Committee but had not received any explanation or risk assessment studies from Turkey. Turkey explained that many countries had imposed import restrictions or bans on live animals and animal products originating from some European countries due to BSE and FMD to protect their public health and livestock. Turkey had simply taken the same measures based on available information and to satisfy the widespread public concern over BSE.

236. In June 2003, Turkey stated that cattle and beef imports from some EC member States and from Hungary had been temporarily suspended as cattle from these countries had not been vaccinated or achieved immunity against FMD and rinderpest which was present in Turkey at that time. The ban had been lifted in 1999, however, due to BSE concerns, the import of livestock had been partly banned again.

UNITED STATES

CONCERNS RELATED TO MEASURES MAINTAINED BY THE UNITED STATES

Food Safety

156. United States – Restrictions on melons

Raised by:	Mexico
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 180-181)
Relevant document(s):	G/SPS/GEN/366
Solution:	Not reported

237. Mexico indicated that on 28 October 2002, the US Food and Drug Administration (FDA) imposed an emergency import ban on cantaloupe melons imported from Mexico. Mexico considered this measure as being disproportionate and not based on scientific evidence of any health risk (G/SPS/GEN/366). Mexico requested the United States to suspend the import ban on cantaloupe melons and to comply with its obligations under the SPS Agreement.

238. The United States noted that FDA sampling of imported produce found that samples of cantaloupe melons from most growing regions in Mexico tested positive for salmonella. The samples had been collected both in the fall/winter and spring/summer seasons, and it appeared that unsanitary conditions in the growing and packing of cantaloupe melons had resulted in four salmonella outbreaks. The import alert recommended officials to detain cantaloupe melons from Mexico at all US ports without physical examination. The October import alert expanded prior import alerts that had targeted specific imports and growers whose products had been linked to outbreaks or had tested positive for salmonella. On 28 October 2002, the United States had announced that they would continue to work with Mexico on a food safety programme for production, packing and shipping of fresh cantaloupe melons. The Mexican Government had proposed a certification programme based on good agricultural practices and good manufacturing practices that would allow the FDA to identify firms that had adopted and implemented such a programme. This certification programme was still under development and the United States looked forward to its early implementation.

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

Raised by:	European Communities
Supported by:	
Dates raised:	November 1998 (G/SPS/R/13, paras. 37-38)
Relevant document(s):	G/SPS/N/USA/133
Solution:	Not reported

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

Animal Health and Zoonoses

Concerns related to TSEs

158. United States – Import restrictions on meat and meat products

Raised by:	Switzerland
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras. 10-12)
Relevant document(s):	G/SPS/GEN/321
Solution:	Not reported

240. Switzerland reported that following the outbreak of BSE in Switzerland, the United States had banned imports of meat and meat products from Switzerland (G/SPS/GEN/321). The ban applied also to meat products processed in Switzerland with meat imported from countries free of BSE, such as Argentina or Brazil. Switzerland had a low incidence of BSE in terms of the OIE International Animal Health Code and the US measure did not follow the international standards. Moreover, the US double inspection procedure was in violation of the SPS Agreement. Bilateral consultations had clarified some of the questions raised by Switzerland, and would hopefully soon lead to a resumption of trade in meat and meat products. The European Communities requested to be informed of the outcome of the discussions between Switzerland and the United States.

241. The United States noted that there was a further complication pertaining to the FMD status of certain countries providing meat to Switzerland for processing and subsequent export to the United States.

159. United States – Measures related to BSE

Raised by:	European Communities
Supported by:	Argentina, Chile, New Zealand, Switzerland
Dates raised:	March 1998 (G/SPS/R/10, paras. 10-12), June 1998
Relevant document(s):	G/SPS/GEN/66, G/SPS/N/USA/106
Solution:	Not reported

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

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

Other Animal Health Concerns

160. United States – Restrictions on pigmeat

Raised by:	European Communities
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, para. 11), October 2003 (G/SPS/R/31, paras.33-34)
Relevant document(s):	G/SPS/N/USA/214/Add.1
Solution:	Not reported

244. The European Communities drew the Committee's attention to notification G/SPS/N/USA/214/Add.1, which recognized Portugal as free of African swine fever. The phrasing of the US notification gave the erroneous impression that Portugal was "in a region infected with classical swine fever", whereas Portugal was recognized as free of classical swine fever by the OIE. Several EC member States remained on the US list of countries infected with classical swine fever solely because of delays in the US legislative procedure for reclassification, possibly for political reasons. The European Communities was hopeful that the publication of a final classical swine fever rule would follow shortly. The European Communities had signed a bilateral veterinary agreement with the United States in 1999 on the understanding that a final rule was imminent.

245. The United States noted that an outbreak of African swine fever was reported in Portugal in 1999 and that on 7 January 2000, the United States had notified measures taken in this regard. In spite of the change in African swine fever status, the export of pork products to the United States could not commence due to the presence of other animal diseases. The United States stated that they had legitimate scientific concerns related to classical swine fever in the European Communities following recent outbreaks in Germany, Spain and Luxembourg.

246. In October 2003, the European Communities stated that it had provided the necessary information and renewed its request to the United States to adhere to commitments made in the 1998 bilateral agreement between the United States and the European Communities on issues relating to animal health.

247. The United States explained that it had been working closely with the European Communities and interested EC member States on this regionalization request. The United States had published a final rule in April 2003 which recognised that certain areas of the European Communities were disease free. On 16 October 2003, APHIS ruled that East Anglia, in the United Kingdom, was disease free and was continuing its evaluation of the status of other EC member States. Outbreaks of both classical swine fever and FMD in France, Spain and Luxembourg had complicated and delayed the response to the regionalization request.

161. United States - Regionalization in relation to animal health

Raised by:	European Communities
Supported by:	
Dates raised:	May 1996 (G/SPS/R/5, para. 15)
Relevant document(s):	G/SPS/N/USA/37
Solution:	Not reported

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

Plant Health

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

Raised by:	European Communities
Supported by:	
Dates raised:	July 2001 (G/SPS/R/22, paras. 30-31)
Relevant document(s):	Raised orally
Solution:	Not reported

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

163. United States – Imports of clementines

Raised by:	European Communities
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, paras. 7-10), June 2002 (G/SPS/R/27, paras. 58-59)
Relevant document(s):	Raised orally
Solution:	Not reported

250. The European Communities reported that on 30 November 2001, USDA APHIS announced an immediate temporary ban on citrus fruit imports from Spain following two reported interceptions of live Mediterranean fruit fly larvae. The finds were made in cold-treated clementines from Spain stored in close proximity to, and possibly even mixed with, fruits from other sources. Imports of Spanish citrus into the United States had taken place in accordance with a protocol agreed in 1987 comprising pre-shipment inspection, cold treatment, checks at the point of entry and measures that should be taken in the event of pest findings. The European Communities considered the US measure disproportionate to the extent and nature of the findings given the impact on trade, and discriminatory since other foreign suppliers, also using cold treatment, could still export clementines to the United States. The European Communities was also dismayed by the US decision to study revisions to the cold treatment procedure and issue a final rule accordingly – a procedure which would take a considerable period of time.

251. In June 2002 the European Communities reported that Spain and the United States continued bilateral efforts to find a resolution to this problem. The European Communities expressed concern as to whether exports would be allowed to resume by the following season on the basis of a new import protocol, given that the slow procedures being followed by the United States might not be concluded in time for the new season. The European Communities indicated that if this were to occur they might invoke the dispute resolution procedures. The United States expressed appreciation for the cooperation of the Spanish authorities in the matter and noted that the comment period had been extended in order to permit all relevant parties the opportunity to comment on the US risk assessment.

164. United States – Interim rule affecting solid wood packaging material

Raised by:	none; Hong Kong, China is affected
Supported by:	European Communities
Dates raised:	November 1998 (G/SPS/R/13, paras. 3-12), March 1999 (G/SPS/R/14, paras. 2-3), October 2001 (G/SPS/R/25, para. 35)
Relevant document(s):	G/SPS/GEN/107, G/SPS/N/USA/137, G/SPS/N/CAN/44
Solution:	Not reported

252. In November 1998, the United States provided information on an amendment of the regulations applicable to unmanufactured wood, adding treatment and documentation requirements for imports from China, including Hong Kong, China. Hong Kong, China found the rule arbitrary and discriminatory. Although Hong Kong, China recognized that fumigation with methyl bromide was effective, it was concerned that the use of this substance had undesirable side-effects on human health and the environment. Bilateral consultations with the United States had taken place. The United States encouraged Members to comment on its draft measure. Canada indicated that it had also imposed a measure on unmanufactured wood imports from China to avoid introduction of the Asian Longhorned Beetle. A technical expert would be sent to Hong Kong, China to study ways to implement this measure with a minimal disruption of international trade. In March 1999, the United States announced that an advance notice of proposed rule making had been published on 20 January 1999, and that comments were welcome until 22 March 1999. The European Communities indicated

that it had been monitoring similar problems, and would provide more information at a later date. In October 2001, Hong Kong, China reported that no new developments had occurred.

165. United States – Notification G/SPS/N/USA/705 on implementation of the international standard for phytosanitary measures on wood packaging (ISPM 15)

Raised by:	Argentina
Supported by:	Chile
Dates raised:	October 2003 (G/SPS/R/31, paras. 50-51)
Relevant document(s):	G/SPS/N/USA/705
Solution:	Not reported

253. Argentina agreed that wood packaging could spread pests, however, the US measures could have a negative impact on Argentina's exports. The US notification did not provide sufficient time for implementing the measures needed for compliance. For instance, Argentina needed sufficient resources and time to establish the required treatment centres for wood packaging materials. Chile supported the statement made by Argentina.

254. The United States stated that it had received 54 comments from seven other Members on its proposed measure and that APHIS was in the process of evaluating these comments to determine how to take them into account. The January implementation date would be postponed and the measure would be phased in over time. The United States encouraged other Members to adopt ISPM 15 as a means of controlling the spread of raw wood pests.

166. United States - Actions taken by local governments

Raised by:	Chile
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev. 1, para. 47)
Relevant document(s):	Raised orally
Solution:	Not reported

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

VENEZUELA

CONCERNS RELATED TO MEASURES MAINTAINED BY VENEZUELA

Animal Health and Zoonoses

Other Animal Health Concerns

167. Venezuela - Import conditions for pork meat and products

Raised by:	European Communities
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, para. 67)
Relevant document(s):	Raised orally
Solution:	Not reported

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

168. Venezuela – Measures related to Avian Influenza

Raised by:	United States
Supported by:	
Dates raised:	July 1997 (G/SPS/R/8, para. 25), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GEN/19, G/SPS/GEN/265
Solution:	Not reported

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

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

OTHER CONCERNS

ANIMAL HEALTH

Other Animal Health Concerns

169. Certain Members – Notifications related to Avian Influenza

Raised by:	United States
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, paras. 63-66)
Relevant document(s):	Raised orally
Solution:	Not reported

259. The United States noted that although international standards existed with regard to avian influenza, differences in the understanding and interpretation of these standards was resulting in unjustified trade barriers. The OIE considered highly pathogenic avian influenza as a List A disease, however low pathogenic strains were not considered to have any significant animal health or socio-economic consequences. However, some Members had restricted imports of poultry products from the United States due to a strain of low pathogenic avian influenza in two poultry flocks in the state of Virginia. The United States requested that the OIE national and regional offices take a pro-active role in advising their members on this matter. Japan observed that there was a possibility of variation in the strains, with a case of a low pathogenic strain causing an outbreak that later varied to a high pathogenic strain. Japan had provided scientific evidence in this regard to the United States, and believed that its measure was fully justified.

260. The OIE confirmed that the OIE Animal Health Code referred to highly pathogenic or virulent avian influenza; most strains of avian influenza were of low pathogenicity and did not cause economic effects. However, the OIE Manual of Standards also made reference to low pathogenicity viruses in laboratory tests through mutation showing highly pathogenic effects in the field. The OIE was working on a definition to include such viruses. The Philippines noted that the OIE Manual also included some text related to low pathogenic strains as these strains could also cause clinical disease and problems.

PLANT HEALTH

170. Phytosanitary issues in general

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 12)
Relevant document(s):	Raised orally
Solution:	Not reported

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