WORLD TRADE ORGANIZATION

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(06-2439)

Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

Addendum

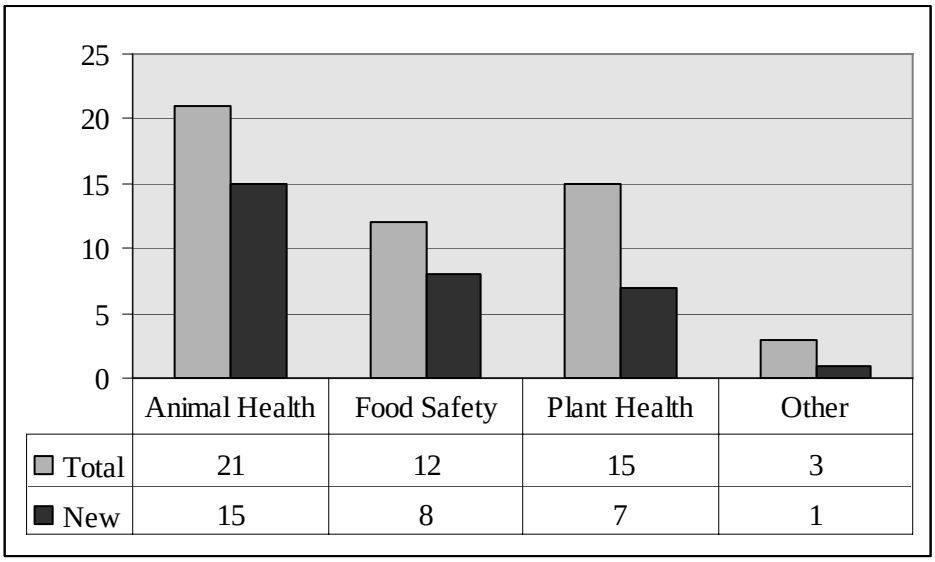
ISSUES CONSIDERED IN 2005

This part of document G/SPS/GEN/204/Rev.6 contains summary information regarding all issues which were raised in the SPS Committee for the first time during 2005, and issues which were previously raised but on which further discussions or activities occurred during 2005. This includes issues for which there was no substantive discussion in the Committee during 2005, but where Members reported that a previously raised issue had been resolved, or where substantive action on the issue occurred in another WTO body during 2005 (e.g., establishment of a dispute resolution panel on the issue).

A total of 51 specific trade concerns were brought to the attention of the Committee during 2005, of which 31 were new issues. Figure 1 shows all trade concerns raised or for which a resolution or other action was reported in 2005 by subject. Overall, 12 issues or 24 per cent of the trade concerns relate to food safety, 15 issues or 29 per cent relate to plant health, and 3 issues or 6 per cent relate to other issues such as transparency of SPS measures. The remaining 21 issues or 41 per cent relate to animal health and zoonoses; this category includes issues such as transmissible spongiform encephalopathy (TSEs) that are also relevant for food safety. Figure 2 indicates that TSEs account for 33 per cent of animal health concerns, while issues related to foot-and-mouth disease and avian influenza account for 14 per cent. The remaining 39 per cent concern other issues such as animal disease-free status.

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

FIGURE 1: TRADE CONCERNS BY SUBJECT - 2005



	Animal Health	Food Safety	Plant Health	Other
Total	21	12	15	3
New	15	8	7	1

FIGURE 2: TRADE CONCERNS RELATED TO ANIMAL HEALTH & ZOONOSES – 2005

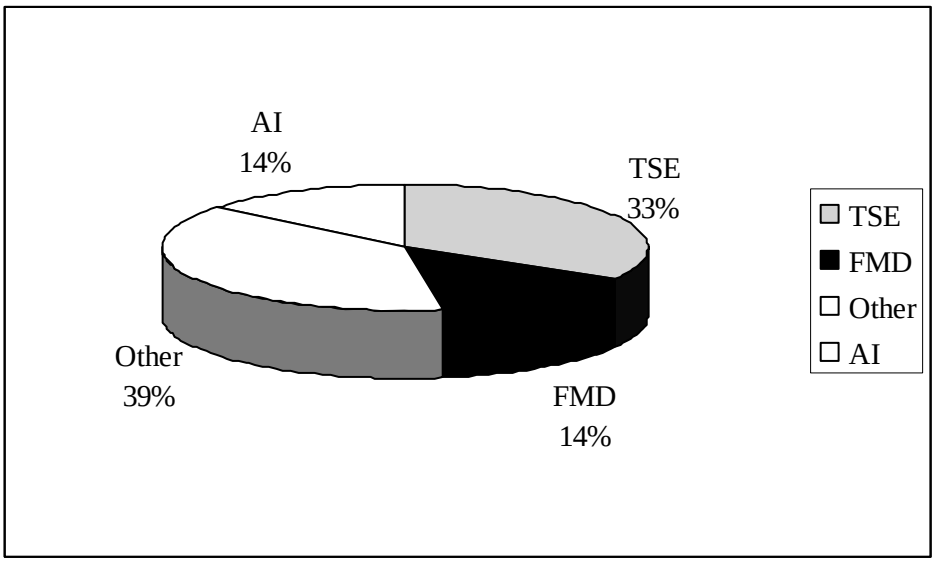
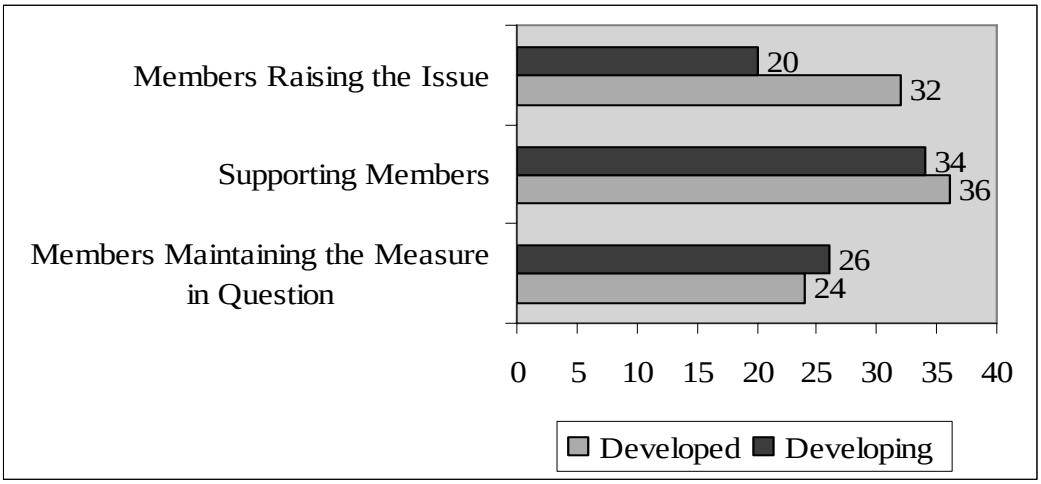


FIGURE 3: PARTICIPATION OF DEVELOPING COUNTRIES – 2005



Of the 51 trade concerns dealt with in 2005, in 32 cases a developed country has raised the issue, compared to 20 for developing country Members and zero for least-developed countries (on some occasions developing and developed country Members have raised or supported the same issue). Developed country Members have supported another Member raising the issue in 36 cases and developing country Members have supported another Member in 34 cases. No least-developed country Member has supported a trade concern. In 24 cases, the measure at issue was maintained by a developing country Member, and in 26 cases it was maintained by a developed country Member (in 3 cases, an unspecified number of countries maintained an issue). No trade concerns regarding measures maintained by least-developed country Members were raised. Figure 4 shows that 7 trade concerns were reported solved in 2005. In 2 cases, the Committee was informed that a partial solution had been found and for the remaining 41 cases, no solution had been reported.

FIGURE 4: SOLVED TRADE CONCERNS

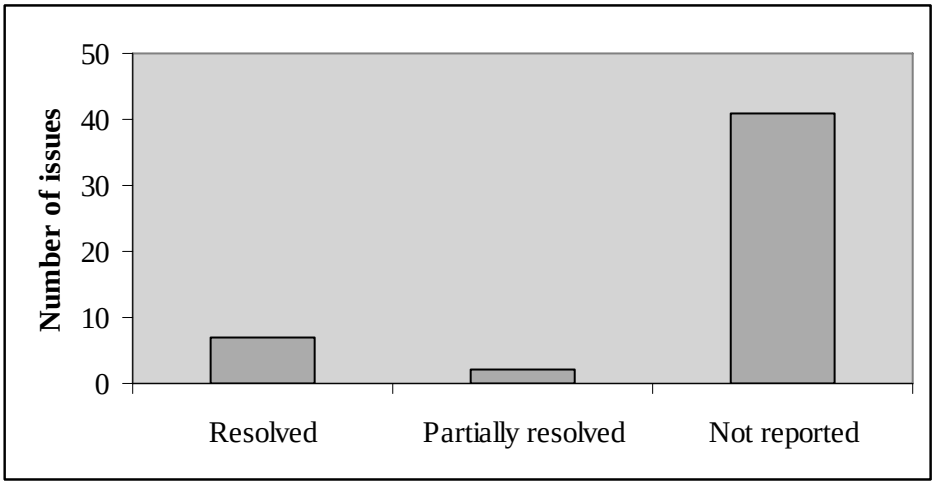


Table 1 – Issues Raised for the First Time in 2005

Item #	Title
217	Australia – Restrictions on New Zealand apples
205	Bolivia - Slaughter of imported breeding cattle
218	Brazil - Lack of recognition of regionalization and disease-free status for classical swine fever
229	Canada - Import restrictions on Enoki mushrooms
230	Costa Rica - Phytosanitary requirements on fresh oranges from Nicaragua (G/SPS/N/CRI/43)
206	European Communities (Greece) - Inspection and testing procedures for imported wheat
207	European Communities - Directives on residual pesticide tolerance and inspection methods for tea
208	European Communities - Food and feed hygiene rules
231	European Communities - Restrictions on cinnamon
220	European Communities (United Kingdom) - Proposed regulations for piper methysticum (kava-kava) (G/SPS/N/GBR/4)
209	European Communities - Plant health directive
219	European Communities - Eurep/Gap requirements for bananas
210	Guatemala - Restrictions on imports of chicken meat
211	Guatemala - Restrictions on the transit of avocados
233	Israel - Absence of phytosanitary import legislation
232	Israel - Import restrictions on EC beef due to BSE
212	Japan - Amendment protocol on MRLs for pesticides, veterinary drugs and feed additives
221	Japan - Safety insurance and quality improvement standards for feed and feed additives (G/SPS/N/JPN/128)
213	Japan - Restrictions on beef
222	Japan - Import suspension on heat-processed straw and forage for feed
224	Japan - Restrictions on EC exports of plant and animal products
223	Japan - Import requirements for Indian mangoes
225	Mexico - Restrictions on US poultry
226	Panama - Inspection regime for meat products (G/SPS/GEN/582)
214	Panama - Inspection regime
227	Chinese Taipei - BSE-related import restrictions on non-ruminant products
215	Thailand - Regulation 11
234	Thailand - Suspension of importation of live poultry and poultry carcasses (G/SPS/N/THA/126)
216	United States - Restrictions on Ya pears imports
228	United States - Import procedures for fruits and vegetables
235	Certain Members - Import restrictions on EC exports of live birds, meat, meat products and other derivates due to avian influenza

Table 2 – Other Items Considered During 2005

Item #	Title
60	Argentina – Import restrictions on bovine semen and embryos, milk and milk products
139	Australia – Restriction on pigmeat
194	Australia – Restrictions on fresh table grapes
165	Bahrain, Kuwait, Oman, Qatar and United Arab Emirates – Import restrictions on spanish olive oil
196	China – Measures on us poultry
197	European Communities – EC regulation on ocratoxin a in coffee (G/SPS/N/EEC/247 and Add.2)
97	European Communities – Restrictions on the use of fishmeal
199	European Communities – Deviation from international standard for wood packing material
96	Geographical BSE risk assessment
111	Indonesia - FMD restrictions
192	India – Non-notification of various SPS measures
133	Japan – Official control restrictions on citrus and other fresh fruits and vegetables
100	Japan - Import measures on fire blight
179	Korea – Guidelines for maximum residue level (MRL) testing
172	Japan – Restrictions on imports of mangoes
187	Panama – FMD restrictions
202	Korea – Septoria controls on horticultural products
123	Venezuela – Restrictions on imports of potatoes, onions, fertilised eggs, day-old chicks and meat products
102	United States - Import restrictions on potted plants from the European Communities
190	Certain Members - Regionalization and recognition of animal disease free status
193	Certain Members – General import restrictions due to BSE

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ARGENTINA

CONCERNS RELATED TO MEASURES MAINTAINED BY ARGENTINA

Animal Health and Zoonoses

Concerns Related to TSEs

60. Argentina – Import restrictions on bovine semen and embryos, 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), June 2005 (G/SPS/R/37/Rev.1, paras. 51-52), October 2005/February 2006 (G/SPS/R/39, para. 94).
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:	Resolved.

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. In June 2005, the European Communities recalled that exports of bovine semen from some EC member States to Argentina were still suffering restrictions. According to OIE rules, bovine semen should not be subjected to restrictions regardless of the BSE status of the exporting country. The European Communities invited Argentinean authorities to replace their national bans by specific import requirements compliant with OIE standards and to finalize negotiations with the concerned EC member States in order to resume trade of bovine semen and embryos. Argentina replied that it was in the process of adjusting its legislation to the new OIE directive adopted in May 2005. Argentina was currently working bilaterally with several EC member States to resolve the issue of export certificates.

8. In February 2006, the European Communities reported that Argentina’s import restrictions on bovine semen and embryos due to BSE had recently been lifted and that some EC member States had already benefited from this change.

AUSTRALIA

CONCERNS RELATED TO MEASURES MAINTAINED BY AUSTRALIA

Animal Health and Zoonoses

Other Animal Health Concerns

139. Australia – Restriction on pigmeat

Raised by:	European Communities
Supported by:	Canada, United States
Dates raised:	November 2002 (G/SPS/R/28, paras. 75-76), April 2003 (G/SPS/R/29, paras. 67-69), June 2005 (G/SPS/R/37/Rev.1, paras. 56-58)
Relevant document(s):	Raised orally
Solution:	Not reported

9. In November 2002, 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.

10. 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.

11. 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.

12. Australia observed that Aujetsky's disease was eradicated in Denmark only in 1992 and following that 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.

13. In June 2005, the European Communities informed the Committee that a joint expert working group had been established to look at ways of restoring full trade while protecting Australia from the introduction of Post-Weaning Multisystemic Wasting Syndrome (PMWS). A recent court case in Australia had ruled that the risk measures for PMWS protection laid down in the Australian risk assessment were not scientifically based and that no import permits relying on these measures would be issued. Consequently, the European Communities and other WTO Members where PMWS was present were unable to expand the range of products authorized for export to Australia. There was also a risk that existing licences, valid only for two years, would not be renewed in July 2006.

14. Canada and the United States expressed appreciation for the Australian Government's appeal of the court decision and the efforts to minimize its trade impact. Canada hoped that the Australian Government would continue to honour the existing import permits and would maintain a science-based approach to imports.

15. Australia confirmed that the Australian Government's policy determination for the import of pig meat, completed in May 2004, had been the subject of a legal challenge in the Federal Court of Australia, which focused on the conditions for the import of pig meat from countries where PMWS was present. While one import permit had been revoked, the remaining 83 had been maintained. Australia was unable to issue any new permits. The Australian Government had appealed this judgement and was seeking an expedited hearing.

Plant Health

194. Australia – Restrictions on fresh table grapes

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

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

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

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

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

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

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

217. Australia – Restrictions on New Zealand apples

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

22. In June 2005, New Zealand explained that it had been actively pursuing access to the Australian apple market since 1986. Fresh apples were the second most significant horticultural export of New Zealand after kiwifruit. Australia's ban on New Zealand apples was based on the perceived risk of fire blight transmission, although science had clearly demonstrated that the risk of mature symptomless apples in trade being vectors for the transmission of fire blight was negligible. Since 1999, when New Zealand made its fourth application for regaining access to the Australian apple market, the Australian authorities had only released two draft risk analyses, systematically followed by a round of comments. This undue delay of six years was unacceptable

23. Chile, the European Communities and the United States indicated that they had experienced similar difficulties. The European Communities hoped that since Australia was reviewing the scientific justification of its 2004 risk assessment in light of the Panel findings in the Japan-Apples

case, its phytosanitary import policy might improve. The United States recalled that the major plant pest of concern was fire blight. As mentioned earlier, a WTO dispute settlement Panel had recently found that stringent control requirements were not justified on the basis of the available scientific evidence, which clearly demonstrated that mature symptomless apple fruit did not pose a risk of transmitting fire blight. It encouraged Australia to expeditiously modify its existing import prohibitions on apples and other fruits due to fire blight concerns. Chile requested to be kept informed of any progress on this issue.

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

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

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

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

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

BAHRAIN, KUWAIT, OMAN, QATAR, UNITED ARAB EMIRATES

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

Food Safety

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

Raised by:	European Communities
Supported by:	
Dates raised:	June 2003 (G/SPS/R/30, para. 166), June 2004 (G/SPS/R/34, para. 17), October 2004 (G/SPS/R/35, para. 58), June 2005 (G/SPS/R/37/Rev.1, para. 75)
Relevant document(s):	
Solution:	Solved

29. In June 2003, the European Communities reported on the final results of the investigation concerning the problems with olive oil contamination in Spain in 2002. The contamination had occurred due to a manufacturing error, but the problem had since been resolved. The restrictions which some Members continued to impose on Spanish olive oil were therefore no longer justified.

30. In June 2004, the European Communities raised concerns over import restrictions on Spanish pomace olive oil imposed by some Gulf countries. After an isolated safety incident in 2001, some Members applied restrictive measures to this product. Since 2001, most Members had gradually lifted the import ban, except the Gulf countries. These products no longer were a risk to human or animal health, as corrective measures had been quickly and properly applied by the competent authorities of Spain. Bahrain, Kuwait, Oman, Qatar and the United Arab Emirates were requested to immediately lift the ban on any type of olive oil imported from the European Union as the ban was not based on any scientific evidence.

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

32. In February 2005, Oman reported that it had lifted the ban on pomace olive oil from Spain. In June 2005, the European Communities informed the Committee that Oman, Bahrain and Kuweit had decided to lift the ban on EC exports of pomace oil without further requirements such as certification. The European Communities was hoping that this would allow trade to resume with these three Members very soon.

BOLIVIA

CONCERNS RELATED TO MEASURES MAINTAINED BY BOLIVIA

Animal Health and Zoonoses

Concerns Related to TSEs

205. Bolivia - Slaughter of imported breeding cattle

Raised by:	Mexico
Supported by:	None
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 45-47)
Relevant document(s):	Raised orally
Solution:	Resolved

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

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

BRAZIL

CONCERNS RELATED TO MEASURES MAINTAINED BY BRAZIL

Animal Health and Zoonoses

Other Animal Health Concerns

218. Brazil - Lack of recognition of regionalization and disease-free status for classical swine fever

Raised by:	EC
Supported by:	None
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 42-44)
Relevant document(s):	Raised orally
Solution:	Not reported

35. In June 2005, the European Communities recalled its concerns regarding Brazil's lack of recognition of regionalization and disease-free status for several animal diseases, including classical swine fever (CSF). French exports of pig products to Brazil were experiencing restrictions, although the domestic EC pig population was free of CSF according to OIE standards. CSF in France was

epidemiologically under control, with strict veterinary and police surveillance and systems for animal identification and traceability.

36. Brazil responded that its measures regarding regionalization for CSF in the European Communities were based on an assessment of the risks for disease spread, taking into account the size of the proposed CSF-free area and considering the epidemiological characteristics of the disease agent. These control measures were scientifically supported by Article 2.6.7.3 of the 2004 OIE Terrestrial Animal Health Code. Moreover, the disease agent could be found in the wild boar population, which made more difficult the establishment of control measures for a proposed disease-free area. The probability of the CSF agent spreading to domestic pigs had to be considered. During bilateral meetings in April 2005, Brazil had proposed the establishment of a bilateral expert working group to define risk analysis criteria related to equivalent regionalization procedures. The Brazilian sanitary authorities were currently working with the bilateral expert group in order to define criteria. Brazil had a regular and continuous CSF-free zone which covered almost all commercial swine herds.

CANADA

CONCERNS RELATED TO MEASURES MAINTAINED BY CANADA

Plant Health

229. Canada - Import restrictions on Enoki mushrooms from Chinese Taipei

Raised by:	Chinese Taipei
Supported by:	None
Dates raised:	October 2005/February 2006(G/SPS/R/39, paras. 36-38)
Relevant document(s):	
Solution:	Not reported.

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

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

CHINA

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINA

Animal Health and Zoonoses

Other Animal Health Concerns

196. China – Measures on US poultry

Raised by:	United States
Supported by:	Canada
Dates raised:	October 2004 (G/SPS/R/35, paras. 26-29), March 2005 (G/SPS/R/36/Rev.1, para. 83)
Relevant document(s):	
Solution:	Resolved

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

40. China stated that provisional emergency measures were adopted early in 2004 to prevent the entry and spread of low and highly pathogenic avian influenza. A ban on the importation of US poultry and poultry products was therefore implemented. China had communicated with the United States to conduct on-site inspections with the objective of regionalizing its ban on avian influenza as well as the possibility of lifting the ban on US poultry. A risk assessment was being conducted and a decision would be made based on the outcome of the risk assessment. China's actions were consistent with Article 6 of the SPS Agreement and OIE guidelines and recommendations.

41. In March 2005, the United States mentioned that since the SPS Committee meeting of October 2004, China had taken actions and the issue had been resolved.

COSTA RICA

CONCERNS RELATED TO MEASURES MAINTAINED BY COSTA RICA

Plant Health

230. Costa Rica - Phytosanitary requirements on fresh oranges from Nicaragua

Raised by:	Nicaragua
Supported by:	None
Dates raised:	October 2005/February 2006 (G/SPS/R/39, paras. 90-92)
Relevant document(s):	G/SPS/N/CRI/43
Solution:	Not reported

42. In October 2005, Nicaragua reported that in mid-2005 competent authorities from Nicaragua and Costa Rica had put in place a bi-national technical team responsible for the prevention and eradication of C*itrus leprosis*, as well as the maintenance of *citrus leprosis*-free areas. The team had confirmed the presence of the *Citrus leprosis* in the south of Costa Rica and in the north of Nicaragua, as well as the *Citrus* leprosis-free status of south Nicaragua, the region containing commercial citrus fruits groves for export. The risk analysis by Costa Rica indicated mature fruits were not the pathway for the spread of the disease, hence imported fruits, which were mature, did not present any phytosanitary risk. The adoption by Costa Rica of an emergency prohibition on imports from Nicaragua was not justified and more trade restrictive than necessary to maintain Costa Rica's appropriate phytosanitary level of protection.

43. Costa Rica indicated that Nicaragua complied with the requirements as its fresh oranges originated from a pest-free area and Costa Rica had not prohibited oranges entering from Nicaragua.

EUROPEAN COMMUNITIES

CONCERNS RELATED TO MEASURES MAINTAINED BY THE EUROPEAN COMMUNITIES

Food Safety

197. European Communities – EC regulation on Ocratoxin A in coffee

Raised by:	Colombia
Supported by:	Bolivia, Brazil, Chile, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Kenya, Peru,
Dates raised:	October 2004 (G/SPS/R/35, paras. 61-67), June 2005 (G/SPS/R/37/Rev.1, paras 168-170).
Relevant document(s):	G/SPS/GEN/475, G/SPS/GEN/490, G/SPS/GEN/515, G/SPS/R/33 (paras. 34-39), G/SPS/N/EEC/247, G/SPS/N/EEC/247/Add.2.
Solution:	Not reported

44. In October 2004, Colombia reported that in May 2004, the European Communities had responded to Colombia's questions regarding Germany's measures on Ocratoxin A (OTA) in roasted and soluble coffee (see also item 176), explaining that Germany was able to set maximum levels OTA in coffee as harmonized EC standards were not yet established (G/SPS/GEN/490). On 1 September

2004, the European Communities issued G/SPS/N/EEC/247, notifying Members of the EC proposal to establish levels for OTA in roasted and soluble coffee.

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

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

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

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

49. In June 2005, Colombia raised concerns regarding the adoption of EC regulation No. 123/2005 on maximum OTA levels in coffee, notified as G/SPS/N/EEC/247/Add.2. Colombia had commented on previous notifications from the European Communities and from Germany (G/SPS/N/DEU/9) on this subject. The European Communities had adopted more flexible levels than those previously established by Germany. However, the adopted regulation foresaw a revision of the maximum levels for certain products by 30 June 2006, at which time the establishment of a maximum level for OTA in green coffee would be considered. This was of concern to Colombia because the application of maximum ochratoxin levels for roasted and soluble coffee already implied the indirect application of a maximum level for green coffee. The establishment of a maximum level for green coffee would regulate the entire production chain, unlike for other products covered by the same notified measure. According to Colombia, given the large amounts of green coffee arriving every day in European ports, additional infrastructure would be needed to store the coffee during testing. Furthermore, during the testing process, the green coffee could undergo condensation and re-humidification processes, which were among the principal risk factors for mycotoxins. Colombia was willing to work with the European Communities and share progress made regarding preventive measures, which should be taken into account in risk assessments.

50. Chile identified similar concerns and sought information on maximum ochratoxin levels for wine, which faced a similar situation.

51. The European Communities explained that the measures introduced represented a harmonized system for imports into the European Communities that was advantageous for exporting countries, since previously the 25 member States had had individual requirements. These individual requirements had been far more demanding than the harmonized levels now established. He invited Colombia to contact the European Communities to discuss the details.

206. European Communities (Greece) - Inspection and testing procedures for imported wheat

Raised by:	Canada
Supported by:	
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 32-33), October 2005/February 2006 (G/SPS/R/39, paras. 222-223)
Relevant document(s):	
Solution:	Not reported

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

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

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

207. European Communities - Directives on residual pesticide tolerance and inspection methods for tea

Raised by:	China
Supported by:	India
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 22-24)
Relevant document(s):	
Solution:	Not reported

55. In March 2005, China recalled that in July 2001, the European Communities had issued a directive on residual pesticide tolerance and inspection methods for tea in which the EC maximum residue limits (MRLs) for seven types of pesticides were higher than those of the Codex standards. When previously discussing that issue bilaterally, China had unsuccessfully requested the scientific evidence and risk assessments justifying these MRLs. China requested that the European Communities apply its detection method for residues on diluted tea as opposed to dry tea leaves, in which pesticide levels were much higher.

56. India expressed concerns that tea was being singled out for rigid residual limits while other competing products consumed in larger quantities in European Communities were not affected.

57. The European Communities clarified that the current regulation on MRLs for pesticides was a combination of EC and member States MRLs. The European Communities was in the process of adopting a new regulation on MRLs for pesticides in all food and feedstuffs that would harmonize all EC member states' national legislation and would likely enter into force in mid 2006. The EC inspection methods for tea were based on the existing Codex methods. Regarding India's concern, the European Communities did not intend to discriminate against tea in relation with any other beverage.

208. European Communities - Food and feed hygiene rules

Raised by:	Canada
Supported by:	United States, Jamaica
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 15-18)
Relevant document(s):	G/SPS/GEN/539
Solution:	Not reported

58. Canada sought clarifications from the European Communities on the requirements that would apply to third countries when the new food and feed hygiene rules come into force on 1 January 2006 (Regulations 852/2004, 853/2004 and 854/2004). Canada further invited the European Communities to solicit comments from third countries sufficiently in advance of the implementation date so that the comments could be incorporated into the final measures. The United State encouraged the European

Communities to provide more formal explanations of the nature and scope of the rules applying to exporting countries. Jamaica agreed with Canada and United States on the need for further clarifications from the European Communities.

59. The European Communities recalled that a document clarifying the traceability provisions of the new body of legislation had been circulated in February 2005 (G/SPS/GEN/539). This document explained that the aim of traceability provisions were intended to identify each link in the chain of supply in the event of product recalls. A seminar open to all third countries would be held in Brussels to explain the consequences of the entry into force of the food and feed hygiene rules.

231. European Communities - Restrictions on cinnamon

Raised by:	Sri Lanka
Supported by:	China
Dates raised:	October 2005/February 2006 (G/SPS/R/39, paras. 52-58)
Relevant document(s):	G/SPS/GEN/597
Solution:	Not reported

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

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

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

63. The European Communities recognized that the EC legislation on food additives and contaminants had no provision for sulphur dioxide in cinnamon, and changing the legislation to allow SO2 in cinnamon could be a lengthy process. The European Commission had explored the possibility of providing technical assistance to Sri Lanka to assist in the preparation of this dossier. The European Commission had brought EC member States' attention to the need to approve SO2 as an additive in cinnamon and encouraged member States to adapt their import policies pending the modification of the EC legislation.

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

220. European Communities (United Kingdom) - Proposed regulations for piper methysticum (kava-kava) (G/SPS/N/GBR/4)

Raised by:	Fiji
Supported by:	
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 72-73)
Relevant document(s):	G/SPS/N/GBR/4
Solution:	Not reported

65. At the June 2005 meeting, Fiji expressed concerns regarding the UK notification of emergency measures on kava-kava, as kava-kava was one of Fiji's few tradable crops of economic significance. Fiji's concerns were related to the request of the UK Commission on Safety of Medicines (CSM) to prohibit kava-kava use in unlicensed medicinal products on the grounds that the CSM had sufficient evidence to conclude that kava-kava was associated with rare cases of liver toxicity. According to an in-depth investigation of kava-kava products conducted by a German consulting firm in 2003, the efficacy and safety of kava-kava had been proven by 20 clinical trials including more than 10,000 patients and supported by post-marketing experience in Europe, the United States and other areas. Health authorities such as the US Food and Drug Administration agreed that kava-kava was a safe drug. Findings also showed that should the toxicity exist, it would occur in an extremely low number of patients, far below the incident rate observed with other freely available drugs. Out of 450 million kava-kava pills exported all over the word between 1990 and 2000, only three cases of liver problems had been linked to the pills. The Fiji kava-kava council was currently drafting a legislative text including, *inter alia*, standards, certification and labelling to ensure consistency and quality of supply. Fiji requested the European Communities to provide any new evidence that supported the claim that the consumption of products containing kava-kava was associated with liver damage.

66. The European Communities recalled that the regulation banning kava-kava had come into force in England and Scotland in 2003 following reports of rare but serious risks to public health and a review of evidence by independent experts in 2002. Similar regulations for Northern Ireland had been planned at the time but only notified on 14 June 2005. A similar notification for Wales was also due to be issued soon. The Food Standards Agency of the United Kingdom had recently requested new evidence on kava-kava in order to review its position.

Animal Health and Zoonoses

Concerns Related to TSE

97. European Communities – Restrictions on the use of fishmeal

Raised by:	Chile, Peru, Norway
Supported by:	Ecuador, United States, Iceland, Norway, Peru, Chile
Dates raised:	July 2001 (G/SPS/R/22, paras. 17-21), October 2001 (G/SPS/R/25, paras. 12-17), March 2002 (G/SPS/R/26, 31-32), June 2004 (G/SPS/R/34, paras. 134-136), March 2005 (G/SPS/R/36/Rev.1, paras. 74-77)
Relevant document(s):	G/SPS/GEN/256, G/SPS/GEN/264
Solution:	Not reported

67. In July 2001, Peru expressed concern about the EC prohibition on the use of fishmeal in the elaboration of ruminant feed, which had no scientific basis, was not based on a risk assessment, and was more trade-restrictive than required. The competent authorities in Peru had shown that fishmeal and fish oil were safe to human and animal health, and had high nutritional value. Since the prohibition had a very serious impact on the Peruvian economy, Peru asked the European Communities to lift this restriction as soon as possible. Chile underlined that fishmeal was not at all related to BSE. At bilateral meetings, the European Communities had explained that the restriction was related to cross-contamination of fishmeal and other animal meals within the European Communities. Chile requested the European Communities to exclude fishmeal from the prohibition, and to be more flexible with standards applied to processing plants in the meantime. The European Communities had classified Chile as having minimal BSE risk, and Chile had offered to provide quality and traceability certificates. Chile was surprised that there were no restrictions on vegetable meals, which could also be mixed with meat and bone meal (MBM) in feed. In addition, MBM continued to be used as pet food in the European Communities. The United States urged Members to reacquaint themselves with the relevant OIE guidelines and recommendations (G/SPS/GEN/230).

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

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

particular products and countries. Iceland objected strongly to the EC measures which were tantamount to an import ban on fishmeal for animal feed.

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

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

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

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

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

75. In March 2005, Norway reiterated concerns regarding the EC prohibition on the use of fishmeal in ruminant feed due to BSE concerns. The OIE had confirmed that there was no scientific evidence to support the view that fish or fishmeal could transmit or disseminate the disease. Iceland, Norway, Peru and Chile supported the statement made by Norway. The decision to ban the use of fishmeal in feed for ruminants was introduced because of fear of cross contamination and of fraud in the blending process. It was now possible to detect whether animal protein was present in feed containing fishmeal. Peru and Chile asked the European Communities to take into consideration the damage this measure caused to developing countries. Fish meal was one of Peru's main export products.

76. The European Communities noted that this measure had been introduced as a control measure to prevent fraud and cross contamination and had not had serious consequences on trade. The measure was modified to allow for continued use of fishmeal for poultry and pigs. The ban was only applied to feed for ruminants which was only about three per cent of the market. The test, which allowed discrimination between protein of mammalian origin and of fish origin, removed the main

technical scientific barrier to the lifting of the measure. The Commission, however, was concerned about reopening the feed dossier, given consumer sensitivities in this area.

96. European Communities – Geographical BSE risk assessment

Raised by:	Canada, India, Chile
Supported by:	United States
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 35-36), July 2001 (G/SPS/R/22, paras. 22-26)
Relevant document(s):	Raised orally
Solution:	Not reported

77. In 2001, 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.

78. 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.

79. In June 2005, India expressed concerns regarding the categorization of India in the suspected list of the GBR. The assumptions made by the European Communities while conducting the risk assessment needed to be reconsidered, as BSE had never been reported in Indian cattle and buffalos. India had made these concerns known to the European Communities on several occasions.. The EC categorization had the potential to disrupt India's beef trade not only with EC member States but also with its other trading partners.

80. The European Communities described its BSE import regime in relation to beef and beef products as proportionate, non-discriminatory and science-based. The recent findings of BSE in both the United States and Canada had not led to measures from the European Communities. The EC classification system had been introduced due to insufficient progress in the OIE with the

development of an international framework on trade in beef and beef products and BSE. In that context, the European Communities encouraged all OIE members, including India, to work towards OIE country classifications which would allow the European Communities to abandon its classification. The European Communities clarified that, unless the OIE failed to classify countries, India's existing classification would not be revisited since it had been carried out on an independent basis by EC scientists.

81. In Feburary 2006, Chile noted that while it had never registered any cases of BSE, in 2005 the European Food Safety Authority (EFSA) evaluated Chile as being a country where BSE was likely to occur or had been confirmed (Category 3 of the GBR). Chile disagreed with EFSA's analysis, particularly the time-frame and some of the data underpinning the analysis. Chile had sent documentation to EFSA and the European Commission but had not received any reply or comment. EFSA's classification cast doubt on the BSE situation in Chile and had negative impacts on Chile's industry. An ad hoc group of the OIE had noted that Chile satisfied requirements for a country provisionally free of BSE. Chile urged EFSA to recognize the OIE evaluation.

82. The representative of the European Communities noted that while EFSA had classified Chile as a Category 3 risk, the European Communities remained open to reassessing the status in the light of the OIE revised code on BSE. If the OIE were to classify Chile as provisionally free, the European Communities would take this into consideration. However only Argentina, Iceland, Singapore and Uruguay were in this particular category. However, even if a country was categorized as a Category 3 risk of BSE, trade could still take place if appropriate measures were in place.

Plant Health

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

Raised by:	United States
Supported by:	Canada, China, Mexico, Philippines, Dominican Republic, Jamaica, Argentina, Chile
Dates raised:	October 2004 (G/SPS/R/35, paras. 30-37), March 2005 (G/SPS/R/36/Rev.1, paras. 65-68, June 2005 (G/SPS/R/37/Rev.1, paras. 65-69), October 2005/February 2006 (G/SPS/R/39, paras. 69-71)
Relevant document(s):	G/SPS/N/EEC/221 and Add.1-3, G/SPS/GEN/556
Solution:	Not reported

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

84. New Zealand stated that countries or regions should not adopt unilateral measures for wood packing material that would cause the disruption of the global implementation of ISPM 15. However, there might be technical justifications for requiring bark-free ISPM 15 compliant wood packing material. Canada shared the concerns of the United States on the importance of achieving harmonization. ISPM 15 allowed for the introduction of debarking requirements only where it could

be scientifically justified. The issue of debarking was under review by the international forestry quarantine research group. The European Communities and those countries introducing debarking requirements were requested to reconsider their measures until the completion of the international review. China, Mexico and the Philippines shared the concerns of the United States and urged Members not to apply measures in excess of ISPM 15 in the absence of any scientific justification. Chile stated that its measures were under public consultation and it welcomed comments from Members.

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

86. In March 2005, the United States welcomed the European Council's decision on 28 February to delay the debarking requirement contained in Directive 2004/102/EC until 1 March 2006. Canada pointed out that no technical justification currently existed for a debarking requirement. Canada hoped that if a debarking requirement would be found necessary it could be done on a multilateral basis within the context of ISPM 15. The Philippines noted that debarking should not be imposed if the wood packaging was already on the market or certified to have undergone the approved treatment according to ISPM 15. The Philippines asked the European Communities to take the developments in international standard setting into account when they decided whether or not to implement their current legislation. The Dominican Republic requested clarification of the EC extension.

87. The European Communities emphasized that the problem related to what extent ISPM 15 permitted debarking. The European Communities had a very good disease status with respect to certain nematodes commonly found in wood packaging material elsewhere in the world. Notwithstanding the views of EC member States that this was a valid measure, the Commission, in light of protests from many third countries, had taken a decision to postpone the measure for one year.

88. In June 2005, the United States emphasized that it was still concerned about the pending implementation of this new directive, which would affect US agricultural and commercial products packaged in wood material exported to the European Communities. The United States reiterated its request for a detailed pest risk analysis or scientific evaluation justifying this additional requirement. Canada suggested extension of the delay until the IPPC had reviewed and assessed the technical justification for this requirement.. In addition, Canada encouraged parties to work together to try to pursue a harmonized approach for the regulation of wood packaging, irrespective of the outcome of the IPPC review. The Philippines invited Members to wait for further information on the EC risk analysis and related technical justification for debarking. The Dominican Republic and Jamaica noted the difficulties experienced by many developing countries exporting to the European Communities, particularly in their efforts to meet the requirements of ISPM 15. Argentina and Chile noted that a working group in the IPPC was working on the issue of debarking.

89. The European Communities recalled that the European Commission had notified the measure to the SPS Committee almost one year before its adoption by the European Council (G/SPS/N/EEC/221 and Add.1-3; G/SPS/GEN/556). Although the European Communities was

satisfied with the scientific basis for the debarking requirement of Directive 2004/102/EC, it had postponed its entry into force as a consequence of the numerous comments received from several Members with regard to the potential for very serious disruption of trade, in order to review and strengthen its scientific justification. The European Commission was currently putting together a technical dossier with the intention of presenting it to the IPPC International Forestry Quarantine Research Group in November 2005.

90. In February 2006, the United States and Canada welcomed the delayed implementation of the requirement that imported wood packaging material be debarked (Directive 2004/102), and the European Communities commitment to work through the IPPC to address issues related to ISPM 15 based on scientific evidence. The representative of the Philippines noted that the Philippines continued to be interested in monitoring further developments of this issue.

91. The European Communities clarified that the implementation of ISPM-15 was not postponed, but only the debarking requirement This postponement decision resulted, in part, from previous discussions in the SPS Committee about the potential serious disruption of trade and the need to convince trading partners of the scientific and technical basis for this requirement.

209. European Communities - Plant health directive

Raised by:	United States
Supported by:	
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 40-41)
Relevant document(s):	
Solution:	Not reported

92. In March 2005, the United States noted under the new EC plant health Directive 2000/29/EC, as amended, and Regulation 1756/2004 the inspection rates for plant products would significantly increase in relation to previous years. The increase in inspections was likely to slow the release of products to importers, thus increasing the potential for spoilage and damage. The United States also sought clarification on how EC member States had provided the data on imported consignments and inspections, as required under Regulation 1756/2004.

93. The European Communities clarified that the overall purpose of the new Regulation was to reduce the level of phytosanitary controls on imports of certain plants, plants products and other objects listed in part B of Annex V to Council Directive 2000/29/EC. However, there would be a period of adjustment in moving towards this new system during which controls would likely increase. A bilateral meeting had permitted discussions of the impact of the legislation with representatives of the US industry and EC authorities were making as quick a transition as possible to the new system of controls, taking into account the past record of US fresh produce exports.

Other Concerns

219. European Communities - EurepGap requirements for bananas

Raised by:	St. Vincent and the Grenadines
Supported by:	Argentina, Ecuador, Jamaica, Mexico, Peru,
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 16-20)
Relevant document(s):	Raised orally
Solution:	Not reported

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

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

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

97. Argentina noted that international agreements existed to ensure that SPS measures were not unnecessarily stringent so as to act as barriers to international trade, and countries had devoted substantial resources to participate in standards development and implementation. If the private sector adopted unnecessarily restrictive standards affecting trade, and countries had no forum in which to advocate rationalization of these standards, twenty years of discussions in international fora would have been wasted. Argentina argued that the rational and legal aspects of these kinds of regulations had to be addressed.

GUATEMALA

CONCERNS RELATED TO MEASURES MAINTAINED BY GUATEMALA

Animal Health and Zoonoses

Other Animal Health Concerns

210. Guatemala - Restrictions on imports of chicken meat

Raised by:	Mexico
Supported by:	
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 28-29)
Relevant document(s):	
Solution:	Not reported

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

Plant Health

211. Guatemala - Restrictions on the transit of avocados

Raised by:	Mexico
Supported by:	
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 28-29)
Relevant document(s):	
Solution:	Not reported

99. In March 2005, Mexico observed that Guatemala had imposed restrictions on the transit of avocados. Progress had been made recently in finding a solution to the problem, and Mexico would monitor the issue bilaterally and in the context of the Regional Organization for Agricultural Health (OIRSA). Guatemala confirmed its willingness to continue working on this issue with Mexico.

INDIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Other Concerns

192. India – Non-notification of various SPS measures

Raised by:	United States
Supported by:	Australia, European Communities, New Zealand
Dates raised:	June 2004 (G/SPS/R/34, paras. 52-54), October 2004 (G/SPS/R/35, paras. 80-82), March 2005 (G/SPS/R/36/Rev.1, paras. 69-70), June 2005 (G/SPS/R/37/Rev.1, paras. 48-50)
Relevant document(s):	G/SPS/R/33 (paras. 23-31)
Solution:	Not reported

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

101. In October 2004, the United States expressed continued concern over India's non-notification of measures which created uncertainty among US exporters. India was requested to notify its SPS measures and to allow a reasonable period of time for comment. The European Communities shared the concerns of the United States and at the same time urged all Members to notify their SPS measures. A bilateral meeting had been held with India and the European Communities were optimistic of improvements in India's transparency obligations. India stated that it would ensure that it complied with its obligations.

102. In March 2005, the United States again expressed concern regarding India's non-compliance with its transparency obligations under the SPS Agreement andrequested India to suspend the implementation of measures on dairy products and pet food until a WTO notification was made available and a reasonable time provided to Members for their review and comment. The European Communities shared the concerns of the United States. India stated that it would take the necessary steps to notify SPS requirements as soon as possible.

103. In June 2005, the United States noted that although India had improved its coordination on SPS issues, some Indian departments continued to note notify SPS measures implemented. The United States requested that India notify new and revised food regulations and import conditions.

104. The European Communities noted that it had also been adversely affected by India's lack of notification of some SPS rules governing imports of agricultural products. Progress in terms of transparency had been limited to the phytosanitary sector; legislation governing animal health and production were not systematically notified.

105. India explained that it had recently notified the establishment of three separate enquiry points with clearly delineated responsibilities. These efforts had achieved greater coordination among agencies, as demonstrated by the number of recent notifications that had been submitted at an early stage in the development of the regulation and with a due period for comments.

INDONESIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDONESIA

Animal Health and Zoonoses

Concerns Related to FMD

111. Indonesia - FMD restrictions

Raised by:	Argentina
Supported by:	Brazil
Dates raised:	October 2001 (G/SPS/R/25, paras. 92-93) (see also item 132), October 2003 (G/SPS/R/31, paras. 35-36), June 2004 (G/SPS/R/34, paras. 34-35), October 2004 (G/SPS/R/35, paras. 53-55, March 2005 (G/SPS/R/36/Rev.1, paras. 48-49), June 2005 (G/SPS/R/37/Rev.1, paras 175-176).
Relevant document(s):	G/SPS/GEN/240
Solution:	Not reported

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

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

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

109. In October 2004, Argentina reported that Indonesia continued to prohibit imports of Argentine beef. Indonesia was requested to comply with OIE recommendations or submit a risk

analysis to justify its measures. Brazil shared Argentina's concerns. Indonesia had prohibited imports of soybean and soybean products from FMD-free areas with vaccination in Brazil. Indonesia's measures were inconsistent with OIE guidelines and recommendations and Article 6 of the SPS Agreement.

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

111. In March 2005, Argentina argued that Indonesia's restrictions were inconsistent with Articles 2.2, 5.1 and 3.3 of the SPS Agreement. Not only did Indonesia's requirements exceed the provisions of the Terrestrial Animal Health Code of the OIE, but they were even less justified now that Argentina had recovered its status of free from FMD with vaccination in the region north of latitude 42°. Indonesia noted that it had submitted a protocol for the approval and inspection of exports of meat products from Argentina and was waiting for the response from Argentina.

112. In June 2005, Argentina recalled that Indonesia's requirement that the country of origin had been FMD-free for at least 12 months prior to shipment,and had not vaccinated against the disease in three years, exceeded the OIE Code, especially as Argentina had regained its FMD-free status. Brazil reportedsimilar experienced problems with exports of meat and meat products to Indonesia. Indonesia indicated the concerns would be forwarded to the relevant authorities.

113. In February 2006, Argentina noted that Indonesian health authorities had been invited to inspect the entire Argentine production chain for meat. Brazil noted that restrictions remained on products such as heat-processed meats, although the technology protected the product from FMD infection.

114. Indonesia clarified that it had a policy of maximum security for imported products of animal origin based on two criteria, animal health and veterinary public health. The overall objective was to maintain Indonesia’s status as a country free from all major diseases such as FMD and BSE, and to protect consumers' health and spiritual comfort through assuring the safety of animals distributed in Indonesia. Indonesia undertook on site reviews of potential exporters in order to collect direct and detailed information as a prerequisite for import authorisation. In December 2005, Indonesia had notified Argentina of its intention to visit Argentina in order to undertake an on site review.

ISRAEL

CONCERNS RELATED TO MEASURES MAINTAINED BY ISRAEL

Plant Health

233. Israel - Absence of phytosanitary import legislation

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

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

116. Israel indicated that these concerns would be transmitted to the relevant Israeli authorities and addressed as soon as possible.

Animal Health and Zoonoses

Concerns Related to TSEs

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

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

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

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

JAPAN

CONCERNS RELATED TO MEASURES MAINTAINED BY JAPAN

Food Safety

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

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

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

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

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

122. China requested Japan to grant at least an additional 18 months for developing country Members to adjust the application of agriculture chemicals, conduct training and education activities, provide guidance to farmers and make laboratory preparations. Although Japan argued that it had taken three years to prepare the draft of its positive list system and had already notified this three

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

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

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

221. Japan - Safety insurance and quality improvement standards for feed and feed additives (G/SPS/N/JPN/128)

Raised by:	China
Supported by:	
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 78-79)
Relevant document(s):	
Solution:	Not reported

125. In March 2005, China raised concerns that Japan's revision of standards for Astaxanthin lacked scientific justification. China was not aware of any evidence of harmful effects and asked if Japan had found Astaxanthin harmful to fish at certain levels.

126. Japan stated that scientific data was insufficient and that no international standards had been established so far. Some Members had regulations to restrict the maximum dose of Astaxanthin to be administered to finfish. Therefore, as a provisional measure, Japan had set an upper limit for Astaxanthin, which was added to feeds, based on SPS measures applied by other Members. Japan had taken into account technical and economic feasibility when deciding the upper limit. Japan was willing to reconsider its regulation when new international standards or scientific evidence on this issue were presented.

Animal Health and Zoonoses

Concerns Related to TSEs

213. Japan - Restrictions on beef imports

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

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

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

129. In June 2005, the United States emphasized over the past 17 months, the United States had provided Japan with extensive technical information on all aspects of its BSE-related protection measures, internationally recognized as effective and appropriate, for both food safety and animal health. The United States stressed that, according to the revised OIE standards, the recent detection of one BSE-infected animal blocked from the food and feed chain could not be used as an excuse to restrict imports of US beef products. The European Communities invited Japan to replace its import ban with specific requirements in accordance with OIE standards. Japan reported that the Food Safety Commission had completed the risk assessment on domestic beef on 6 May 2005 and was now carrying out the risk assessment on US beef.

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

opened its market for some US beef products but maintained scientifically unjustified restrictions on other products, inconsistent with international standards.

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

Concerns Related to FMD

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

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

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

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

Plant Health

100. Japan - Import measures on fire blight

Raised by:	United States
Supported by:	New Zealand, European Communities
Dates raised:	July 2001 (G/SPS/R/22, paras. 27-29), October 2001 (G/SPS/R/25, paras. 9-11), March 2002 (G/SPS/R/26, paras. 36-38), June 2002 (G/SPS/R/27, paras. 52-53)
Relevant document(s):	Raised orally; G/SPS/GEN/299, WT/DS245/R, WT/DS245/AB/R
Solution:	Consultations requested on 1 March 2002; panel requested on 22 May 2002; panel established 3 June 2002; panel report issued 15 July 2003, Appellate Body report issued 26 November 2003, adopted 10 December 2003. Article 21.5 panel and Article 22.6 arbitration established on 30 July 2004. Article 21.5 panel report issued 23 June 2005. Mutually agreed solution reported 2 February 2005.

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

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

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

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

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

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

Raised by:	United States, New Zealand
Supported by:	Australia, European Communities
Dates raised:	June 2002 (G/SPS/R/27, paras. 27-30), November 2002 (G/SPS/R/28, paras. 59-62), April 2003 (G/SPS/R/29, paras. 55-57), June 2003 (G/SPS/R/30, paras. 61-63), October 2003 (G/SPS/R/31, paras.19-20), March 2004 (G/SPS/R/33, paras. 59-62), June 2004 (G/SPS/R/34, paras. 18-21), October 2004 (G/SPS/R/35, paras. 42-44), March 2005 (G/SPS/R/36/Rev.1, paras. 61-64)
Relevant document(s):	G/SPS/GEN/357, G/SPS/N/JPN/132
Solution:	Not reported

139. In June 2002, the United States indicated that Japan continued to impose costly and unjustified quarantine actions when pests were detected on imported US fruits and vegetables, even though the same species were commonly found in Japan. In many instances these actions included treatment that damaged and destroyed the commodity in question. These practices lacked a scientific basis and were inconsistent with IPPC standards on official control and risk assessment for quarantine pests. The result was an arbitrary and unpredictable system facing US horticultural exports to Japan. The United States supported Japan's efforts to bring its plant laws into line with international standards and hoped that bilateral technical discussions would result in the termination of unjustified requirements. The European Communities supported the US statement. New Zealand noted concerns with Japan's continuing practice of fumigating consignments of fresh products due to the interception of pests that did not meet the definition of quarantine pests under the IPPC.

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

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

142. Japan recognized that the IPPC standards should be one of the basis in a possible future quarantine system for Japan. Japan was examining whether its appropriate level of protection could be maintained by applying plant quarantine measures in line with the new IPPC definition, taking into account Japan's climate and the large volume of imports into Japan. A number of pests were presently

under study and although a final conclusion had not yet been reached, discussions were underway to identify practical measures to reduce the effects of Japan's official control measures on international trade.

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

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

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

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

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

148. Japan recalled that at the last Committee meeting, Japan and New Zealand had agreed to resolve the issue from a technical perspective and on a case-by-case basis. As a result of bilateral discussions, new quarantine measures were to be introduced in May 2004, based on trials of orchard control for Fuller Rose Weevil on kiwifruit. Furthermore, quarantine trials for reducing fumigation

on lettuce from the United States were conducted from July 2003 to March 2004 and the results were under evaluation. Japan had received requests for 39 species of pests from New Zealand and 11 species from the United States to be designated as non-quarantine pests. Members' concerns on the inconsistency of Japan's plant health laws with international standards were under review. The consultative group on plant quarantine established by Japan's plant quarantine authorities had held four meetings but experienced a delay in compiling its recommendations. The consultative group meetings would be reactivated to work on recommendations which would be considered by plant quarantine authorities for further action.

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

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

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

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

153. In March 2005, New Zealand reiterated its concerns and welcomed Japan's announcement of expansion of its non quarantine pest list through the addition of 46 pests, especially as this list included a number of pests of specific concern to New Zealand. New Zealand encouraged Japan to implement these proposed changes as soon as its domestic regulatory procedures allowed, and in a manner that significantly addressed its concerns. New Zealand also requested information on Japan's proposed timetable for carrying out risk assessments on other pests of concern to New Zealand with a

view to their inclusion on Japan's non-quarantine pest list as soon as practicable. The United States and the European Communities shared the concern that Japan's systems and procedures needed to be further modified to conform to international norms and practices while welcoming Japan's efforts to revise its plant quarantine process.

154. Japan noted that it had notified the draft amendment of the ordinance modifying non-quarantine pest lists in December 2004 (G/SPS/N/JPN/132). Comments from Members had been accepted for 60 days between 4 January and 4 March 2005. Domestic comments had been collected between 27 December 2004 and 25 February 2005. These comments were presently under examination by the plant quarantine authorities of Japan and it would take approximately one month to amend the relevant regulations, if approved.

172. Japan – Restrictions on imports of mangoes

Raised by:	Brazil
Supported by:	India
Dates raised:	June 2003 (G/SPS/R/30, paras. 34-35), October 2003 (G/SPS/R/31, paras. 25-26), March 2004 (G/SPS/R/33, paras. 65-67), June 2004 (G/SPS/R/34, paras. 25-26), March 2005 (G/SPS/R/36/Rev.1, paras 81-82).
Relevant document(s):	Raised orally
Solution:	Resolved

155. Brazil indicated that it had been seeking approval to export mangoes to Japan for 18 years. Japan demanded steam treatment in spite of the satisfactory level of the measures taken by Brazil, Chile and other potential exporters to avoid fruit fly. Japan had continuously demanded more information and had not taken previous scientific studies into account. Although Japan had offered technical assistance, this had not facilitated the process. Brazil considered that Japan's measures were inconsistent with the provisions of the SPS Agreement on equivalence, regionalization and technical cooperation.

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

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

158. In March 2004, Brazil stated that the Japanese authorities had reacted favourably to technical data provided by Brazil the previous year. The evaluation process had entered a new phase and Brazil hoped to come to a satisfactory solution including the signing of a protocol on packaging, storage and transportation of mangoes to Japan. India noted that, while India was a fruit fly free area its request for market access for mangoes into Japan had been under review for ten years. India had submitted data to Japan and hoped for a favourable response. Japan stated that technical evaluation

of data submitted by Brazil was in the final stages. With respect to India's concerns, Japan had not received technical data from India but looked forward to receiving such data.

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

160. In March 2005, Brazil informed the Committee that on 29 September 2004, Japan had modified its phytosanitary regulations and established specific norms for the import of mangoes from Brazil. In December 2004, Japanese inspectors had gone to Brazil to examine packing houses. On 12 January 2005, the first shipment of Brazilian mangoes had been exported to Japan, which marked the beginning of a regular flow of exports of mangoes to Japan. To date, eight shipments of mangoes (variety Tommy Atkins) had been exported without restrictions. Japan noted that the measure was taken through the appropriate pest risk assessment process based on technical data submitted by Brazil.

223. Japan - Import requirements for Indian mangoes

Raised by:	India
Supported by:	
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 37-38)
Relevant document(s):	
Solution:	Not reported

161. In June 2005, India stated that although it had many years ago provided the pest and surveillance data and the information on treatment standards requested by Japanese authorities, the pest risk analysis had not yet been completed. The extremely slow progress made so far was impinging heavily on India's market access for mangoes to Japan. Another round of bilateral technical consultations would be held in mid-July 2005.

162. Japan explained that it was taking the necessary measures to prevent a possible invasion of the melon fly and two other pests recorded in India but not present in Japan. Japan had to verify the disease status of Indian mangoes or the application of an effective disinfestation treatment in accordance with relevant international standards. Technical discussions were currently ongoing in order to develop the disinfestation technique, but the technical data provided were not sufficient to allow certification of the effectiveness of the technique.

Other concerns

224. Japan - Restrictions on EC exports of plant and animal products

Raised by:	European Communities
Supported by:	Brazil
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 24-25), October 2005/February 2006 (G/SPS/R/39, paras. 74-75)
Relevant document(s):	
Solution:	Not reported

163. In June 2005, the European Communities raised concerns with regard to Japanese phytosanitary administrative procedures governing the approval of agricultural imports. The issue had been previously raised on a bilateral basis, but the procedures continued to be consuming and not fully transparent. To list a new variety of plant products, EC exporters were facing delays of two to three years. The approval procedure for one plant was usually not valid for similar varieties although, in terms of plant health risk, there were almost no differences between them. The European Communities requested that any future application for similar plant species with similar plant production systems and pest status be considered as an extension of the original application.

164. Other issues of concerns to the European Communities included, *inter alia*, Japan's inspection procedures in the exporting country, phytosanitary import regulations, and a system of zero-tolerance for all pests not included in Japan's list of non-quarantine organisms. With regard to the animal sector, disease-free status recognition and health import certification were difficult. The European Communities invited Japan to review its internal administrative SPS procedures to make them more efficient and transparent. Brazil also expressed concerns regarding Japanese approval procedures for plant varieties.

165. Japan explained that it had already taken the necessary steps to fully comply with the SPS Agreement and a number of EC exports of fruits and vegetables were currently entering the Japanese market. However, Japan remained open to discuss with the European Communities any specific issue justified by facts and figures in order to identify the source of the problem.

166. In February 2006, the European Communities reported that some progress had been made in consultations between Japan and some EC member States. Japan noted that, risk assessments based on scientific evidence had been carried out. Where the assessments showed that the proposed measure met Japan’s appropriate level of protection, import bans had been lifted or SPS measures eased. The content and amount of data necessary for the risk assessment differed among species and according to regional conditions, so the duration of the assessment varied accordingly. If the European Communities could be more specific about their concerns, Japan would try to address these through bilateral consultations.

REPUBLIC OF KOREA

CONCERNS RELATED TO MEASURES MAINTAINED BY THE REPUBLIC OF KOREA

Food Safety

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

Raised by:	United States
Supported by:	Australia, Canada European Communities, New Zealand, , Philippines
Dates raised:	October 2003 (G/SPS/R/31, paras. 11-14), March 2004 (G/SPS/R/33, paras. 40-42), June 2004 (G/SPS/R/34, paras. 46-48), October 2004 (G/SPS/R/35, paras. 47-50), March 2005 (G/SPS/R/36/Rev.1, paras. 71-73)
Relevant document(s):	G/SPS/N/KOR/123, G/SPS/N/KOR/154 and 155
Solution:	Not reported

167. In October 2003, the United States expressed concern that Korea's changed import regulation was onerous and not supported by science. Under the new import inspection programme imported grains, fruits and vegetables would be subjected to annual MRL tests for the presence of 196 agricultural chemicals. Importers would have to bear the US$1,800 cost of such tests, whereas domestic producers were exempt from the mandatory testing requirements. Domestic producers were subject to random test for which the Korean Government bore the costs. Australia, the European Communities and New Zealand also requested Korea to amend the measure which they described was contrary to Annex C of the SPS Agreement.

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

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

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

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

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

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

173. In March 2005, the United States noted that although Korea had proposed exemption from mandatory laboratory inspection for imported food with a clean record, the proposed exemption had not been included in the final revised regulation. Furthermore, the fee for mandatory laboratory inspection (approximately US$500) remained as a barrier to new products and was still twice as large as that initially proposed by the Korean Food and Drug Administration in October 2003. Domestic producers were exempted from the mandatory testing requirements but subjected to random tests. However, the Korean Government bore all the costs for these tests. The United States had held bilateral consultations with Korea for nearly two years, and further consultations were scheduled. The European Communities and the Philippines shared the concerns of the United States. The Philippines indicated that the requirements would be particularly burdensome for developing countries, and asked Korea to take developing countries exporters into special consideration.

174. Korea noted that the revised regulation to implement this measure would come into effect this year. The proposed testing fee had been reviewed following a public hearing process. Some interested groups had expressed the view that the proposed testing fee would not be enough to compensate the cost of the testing. Korea had carefully reviewed the various opinions and had decided on the level of the testing fee. That level was two times higher than the proposed one, yet about one fourth the level initially proposed. If necessary, the testing fee would be adjusted in the future.

Plant Health

202. Korea – Septoria controls on horticultural products

Raised by:	United States
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 40-41), March 2005 (G/SPS/R/36/Rev.1, para 84)
Relevant document(s):	
Solution:	Resolved

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

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

177. In March 2005, the United States and Korea reported that this issue had been resolved following technical meetings.

MEXICO

CONCERNS RELATED TO MEASURES MAINTAINED BY MEXICO

Animal Health and Zoonoses

Other Animal Health Concerns

225. Mexico - Restrictions on US poultry

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

178. In June 2005, the United States stated that Mexico was banning imports of poultry and poultry products from an entire US state in which cases of low pathogenic avian influenza (LPAI) had been reported in some areas. Mexico also required avian influenza (AI) testing for layer and broiler flocks regardless of whether or not AI had been reported. Only two subtypes of AI (H5 and H7) had been found to mutate into the highly pathogenic forms of the disease. Low pathogenic strains of AI did not cause systemic disease and had not been shown to be of consequence for animal health or food safety. The OIE did not recommend any trade restrictions on poultry and poultry products when cases

of low pathogenic strains of AI of non-H5 and H7 subtypes were reported and only limited measures for low pathogenic strains of the H5 and H7 subtypes. The relevant scientific evidence showed that the LPAI virus did not appear in the muscle tissue of an infected chicken and that neither fresh meat nor eggs imported from regions affected by low pathogenic AI posed a risk of transmitting the disease. Given the scientific evidence underpinning the recently-adopted changes in the relevant international standard, the United States encouraged Mexico to modify its import restrictions and testing requirements.

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

180. Mexico explained that since May 1994, when low pathogenicity avian influenza (LPAI) had been detected in Mexico, specific SPS measures had been applied to prevent exotic subtypes and control and eradicate the only subtype identified, H5N2. Mexican Official Standard NOM-44-ZOO-1995, which covered any subtype of avian influenza (AI), both low and high pathogenic strains, had been published in 1995. In the United States, various subtypes of low and high pathogenic strains had been officially identified, none of which, with the exception of one, existed in the Mexican poultry sector. The sanitary requirements established by the Mexican legislation in the domestic poultry sector were equivalent to those applied for the export of poultry and poultry products originating in the states affected by AI in the United States. However, the sanitary measures aimed at ensuring epidemiological surveillance and monitoring of the transport of poultry and poultry products applied in the affected states of the United States were not equivalent to those implemented in the Mexican poultry sector. As the risk of transmission of AI was particularly high in live poultry and less in fresh poultry products and by-products, importation of some poultry products from the quarantined states was allowed. Mexico was continuing to analyze the technical information provided by the United States with a view to the opening up of exports of poultry and poultry products. This additional information had been provided by the USDA during the first quarter of 2005.

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

PANAMA

CONCERNS RELATED TO MEASURES MAINTAINED BY PANAMA

Animal Health and Zoonoses

Concerns Related to FMD

187. Panama – FMD restrictions

Raised by:	Argentina
Supported by:	Brazil, Costa Rica
Dates raised:	March 2004 (G/SPS/R/33, paras. 16-17), October 2004 (G/SPS/R/35, paras. 56-57), March 2005 (G/SPS/R/36/Rev.1, paras. 50-51), June 2005 (G/SPS/R/37/Rev.1, paras 173-174), October 2005/February 2006 (G/SPS/R/39, paras. 83-87)
Relevant document(s):	
Solution:	Not reported

182. In March 2004, Argentina raised concerns on two measures adopted by Panama to prohibit the imports of certain products due to FMD. On 19 March 2001, Panama issued a resolution to restrict the imports of animals and by-products from Europe and South America with the exception of Chile. On 1 August 2001, Panama amended its penal code through Law 44. Neither measure complied with OIE recommendations. However, during bilateral consultations held on 16 March 2004, Panama had proposed amending Law 44 to eliminate these restrictions. Panama confirmed the positive outcome of the bilateral meeting and indicated discussions with Argentina would continue.

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

184. In March 2005, Argentina recalled that in October 2004, a bilateral agreement had been negotiated with Panama whereby officials from Panama would carry out a visit to establish the safety of Argentina's milk products. The visit had not yet taken place and Argentina dairy products continued to be prevented from entering Panama.

185. Panama noted that it permitted imports of agricultural products if the country of origin showed objectively that its sanitary measures guaranteed the same level of protection as the sanitary measures established in the regulations of Panama. The legislation in Panama required that imports of animal products from countries affected by exotic illnesses be preceded by a risk analysis undertaken by the Panamanian authorities, based on the methodologies recommended by the international organizations of which Panama was a member. The inspection of establishments in the exporting country was part of the process to determine the sanitary situation of the country. Argentina was invited to develop a plan of action so that Panama could carry out the visits in Argentina.

186. In June 2005, Argentina reported that the visit of the Panamanian authorities had not yet taken place, although Argentina had responded to a questionnaire. Furthermore, Panama subsequently added a registration requirement for firms interested in exporting dairy products to Panama for tax purposes. Argentina asked Panama to adjust its sanitary requirements to those in the OIE Code and to modify its administrative requirements.

187. Panama replied that Argentina's request was close to completion. Registration of interested firms was indeed required, and as soon as these steps were completed, Panamanian officials would be able to visit Argentine plants to finalize the procedure.

188. In February 2006, Argentina stated that the visits to dairy plants still had not occurred. Companies wishing to export to Panama were required to be registered in Panama and the veterinary evaluation services of an exporting country had to be authenticated by the Panamanian competent authorities, supposedly to avoid "ghost companies". Argentina reiterated its request that Panama bring its regulations into line with the OIE Code, remove the bureaucratic barriers to market access and be transparent about its administration procedures.

189. Brazil noted that it had recently had problems relating to the administrative procedures established by Panama for certain Brazilian products. Costa Rica also expressed hope that products from Costa Rican dairy plants still undergoing inspection would soon have access to Panama.

190. Panama maintained that its sanitary risk assessment methodology was in full compliance with both the SPS Agreement and the OIE standards. Compliance with Panama's requirements for the export of dairy products was not limited to the inspection of certain dairy processing plants but required the exporting country to objectively demonstrate this compliance. Once Panama had received the information demonstrating Argentina's compliance with Panama's requirements, a risk analysis would be carried out in order to re-establish the trade in dairy products.

Other Animal Health Concerns

214. Panama - Inspection regime for food processing establishments

Raised by:	United States
Supported by:	Canada
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 25-27),
Relevant document(s):	G/SPS/N/PAN/1, G/SPS/N/PAN/28 , G/SPS/N/PAN/37,
Solution:	Not reported

191. The United States indicated that Panama had broadened its establishment inspection requirements to most food processing establishments in January 2005, without notifying the WTO and providing interested Members an opportunity to comment. This was in contradiction with Article 7 and Annex B of the SPS Agreement. In addition, Panama had not provided any risk assessment that supported these new measures, despite formal requests by the United States. Canada recalled that it also had experienced problems in the past with the establishment-by-establishment accreditation approach used by Panama, and urged Panama to consider the quicker and less expensive alternative approach of systems approval.

192. Panama pointed out that this regime had been notified to the SPS Committee and Members provided an opportunity to comment on it (G/SPS/N/PAN/1, G/SPS/N/PAN/28 and G/SPS/N/PAN/37). This was the first time, since the implementation of Panama's inspection regime for the inspection of food establishments in 1995, that an issue in relation with this system had been raised at the WTO. Panama's legislation required that imports of animals and animal products from countries affected by exotic illnesses be subject to a risk analysis carried out by Panamanian health authorities because Panama, as a hub for world trade transit, was exposed to a greater risk of illness from exotic animals and plants.

226. Panama - Inspection regime for agricultural products

Raised by:	Costa Rica
Supported by:	Argentina, Canada, Colombia, European Communities, United States
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 39-41)
Relevant document(s):	G/SPS/N/PAN/43, G/SPS/GEN/582
Solution:	Not reported

193. In June 2005, Costa Rica noted that, as developed in document G/SPS/GEN/582, Panama's new inspection system, notified in April 2005 as G/SPS/N/PAN/43, posed problems to several Costa Rican firms trying to export tomato paste, milk and animal products to Panama. Panama had changed its rules regarding the inspection of plants without prior notification to the WTO and provision of an adaptation period. Although Costa Rican enterprises already had certifications from the Panama's Ministry of Health for exports of sweetened milk and animal products to Panama, now according to the new rules they also had to undergo inspection by the Ministry of Agriculture. Costa Rica had unsuccessfully requested Panama to avoid the second inspection. Costa Rica had also requested that Panama provide the risk assessment and scientific justification supporting this new requirement.

194. Argentina, Canada, Colombia, the European Communities and the United States reported experiencing similar difficulties accessing the Panamanian market. Argentina had sanitary difficulties in relation to FMD and bureaucratic difficulties which did not seem to be designed to protect animal health in Panama (see Panama- FMD restrictions). The European Communities had suddenly been faced with a new Panamanian health legislation referring, firstly, to a system which seemed to link obtaining an import licence for Panama to a payment and, secondly, to an inspection system which would be paid for by the exporting country. The United States recalled an issue raised at the March meeting of the Committee concerning the expansion of Panama's inspection programme to most food processing establishments and the non notification of this significant change in Panama's import regime. Canada had been experiencing problems with Panama's requirement for plant-by-plant approvals for meat exports and the recent changes to Panama's inspection regime.

195. Panama reminded the Committee that it was the first time that this issue of plant inspection was raised by Costa Rica before the SPS Committee and explained that he would convey Costa Rica's comments to the competent authorities. Panama's inspection regime followed the fundamental principles of the SPS Agreement and of OIE and IPPC standards. Risk assessment methods comprised two parts: the protection of Panama's health status and the functioning of the Ministry of Agriculture. The excellent quality of Panama's exports of cattle and dairy products was due to a stringent application of the SPS measures domestically and to imports. Because of its geographical situation as a hub for world trade, Panama was exposed to a greater risk of introduction of pest and animal diseases and therefore had to undertake a risk assessment prior to authorizing imports from countries affected by exotic diseases. The risk assessment undertaken by the Panamanian authorities would shortly be given to the Costa Rican delegation.

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

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINESE TAIPEI

Animal Health and Zoonoses

Concerns Related to TSEs

227. Chinese Taipei - BSE-related import restrictions on non-ruminant products

Raised by:	United States
Supported by:	European Communities
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 30-32)
Relevant document(s):	
Solution:	Not reported

196. In June 2005, the United States raised concerns regarding the BSE-related import prohibition imposed by Chinese Taipei on non-ruminant rendered meals except fishmeal, and all spray-dried animal products except dairy products and certain porcine products made in specified plants. For over five years, the United States had been providing significant scientific information to the animal health authorities of Chinese Taipei to allow the resumption of this trade. Chinese Taipei had not provided any scientific justification exceeding the relevant international standards. Bilateral discussions just prior to the meeting gave hope of finding a mutually satisfactory solution.

197. The European Communities requested that Chinese Taipei and other countries fully adopt the new recommendations of the OIE Code. The clearer and simpler provisions of the OIE Code specifically allowed trade of beef products derived from deboned skeletal muscle meat from animals under 30 months of age.

198. Chinese Taipei pointed out that Chinese Taipei's concerns focused primarily on the possibility of cross-contamination with material of ruminant origin. The implementation of the US system needed careful evaluation and verification by on-site inspections. Based on risk analysis results, the importation of fish products, hydrolyzed proteins derived from processing meals, spray-dried proteins and plasma proteins from the United States were not currently prohibited. Chinese Taipei's SPS measures were designed to ensure the safe trade of animal and animal products in accordance with the concept of an appropriate level of protection and did not exceed the OIE guidelines. Chinese Taipei was seeking a solution to the issue with the United States. Regarding the EC concern on beef, Chinese Taipei would respond to the European Communities in writing.

THAILAND

CONCERNS RELATED TO MEASURES MAINTAINED BY THAILAND

Food Safety

215. Thailand - Regulation 11

Raised by:	United States
Supported by:	New Zealand, Japan
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 42-44), June 2005 (G/SPS/R/37/Rev.1, paras. 45-47), October 2005/February 2006 (G/SPS/R/39, paras. 59-60)
Relevant document(s):	G/SPS/N/THA/116 and addenda 1-5
Solution:	Not reported

199. In March 2005, the United States observed that Thailand had notified Public Health Regulation N° 11 to be implemented in December 2004 (G/SPS/N/THA/116). In response to extensive comments, Thailand had delayed implementation to March 2005 (G/SPS/N/THA/116/Add.1), but had not addressed the substantive issues raised by the United States. Many US fresh food products had been categorized in that Regulation as high risk with no scientific basis. As a result, burdensome and costly testing and certification of compliance with pathogen requirements, and pesticides and heavy metals residue levels were now required for US exports to enter the market. The United States urged Thailand to suspend implementation of the Regulation until a science-based risk assessment for each product affected had been conducted.

200. New Zealand also expressed concerns about the testing and certification requirements of Regulation 11 and requested Thailand to further delay the entry into force of the regulation in order to substantially amend it .

201. Thailand indicated that the Regulation was part of a national strategic plan on food aimed at strengthening control measures for the safety and quality of Thai food from farm to table or export markets. The Regulation was not intended to discriminate against imports.

202. In June 2005, the United States recalled that Thailand had notified further revisions to Rule 11 on 23 May 2005, (G/SPS/N/THA/116/Add.3**)** leaving only 38 days for WTO Members to provide comments. This was not sufficient for exporters to become familiar with the changes, nor for Members to submit comments, or for Thailand to consider comments that might have been provided. The United States still had substantial concerns about the scientific basis for Thailand's categorization of many US products as "high risk". It was also still not clear whether Thailand would require certification and testing on domestic products. On 24 June 2005, the United States had been informed that the implementation of Rule 11 would be delayed until 31 December 2005. The United States appreciated these developments and encouraged Thailand to develop measures consistent with the SPS Agreement to manage any documented risks.

203. Japan observed that a national strategic plan on food, such as Rule 11, aimed at strengthening the control measures for the safety and quality of domestic and imported food, should be based on a science-based risk assessment and the working principles for risk analysis applied by the Codex Alimentarius. In order to avoid unjustified trade barriers, risk management should ensure transparency and consistency in the decision-making process in all cases. Japan requested information about the relationship between the proposed regulation and the related international standards.

204. Thailand replied that the food standards that would be applied throughout the country complied with the relevant international standards. Requiring a health certificate was the best option to alleviate the burden on importers at the border and was in compliance with Codex standards. Thailand had addressed most of the comments received from Members. Some food standards inconsistent with the Codex had been withdrawn, pending further science-based evaluation. Thailand notified additional modifications on 12 July 2005 (G/SPS/N/THA/116/Add.4) and cancelled its notification on 12 January 2006 (G/SPS/N/THA/116/Add.5) in order ot undertake a complete review of Rule 11.

205. In February 2006, the United States expressed appreciation for Thailand's several extensions and eventual cancellation of implementation of Decree 11. However, the underlying decree was still in place and its overall requirement that food must be proven to be safe through unspecified testing and certification processes remained of concern. Thailand was urged to reconsider the framework of the decree and to notify any changes sufficiently in advance for WTO Members to comment before final decisions were made.

206. Thailand clarified that, on the basis of comments by some Members, the requirements for a food health certificate had been withdrawn and the current review focussed on high risk food products. This review would be based on scientific risk assessment. Thailand was convinced that certifying healthy food on the basis of international standards was a way of facilitating trade. Thailand was also willing to recognize the equivalence of other measures. on the basis of international guidelines.

Animal Health

Other Animal Health Concerns

234. Thailand - Suspension of importation of live poultry and poultry carcasses (G/SPS/N/THA/126)

Raised by:	Mexico
Supported by:	
Dates raised:	October 2005/February 2006 (G/SPS/R/39, paras. 88-89)
Relevant document(s):	
Solution:	Not reported

207. In February 2006, Mexico requested Thailand to conclude the emergency measures which had led to the temporary suspension of imports of live poultry and poultry carcasses from the Mexican state of Durango. The strain of avian influenza (AI) detected in the Mexican poultry products (H5N2) was low pathogenic. In accordance with the OIE, prior to implementing such measures, Thailand should have demonstrated that it was free of the low pathogenic strain at issue and that it had put in place a monitoring programmes able to detect this subtype despite the absence of clinical symptoms. Mexico's programme for AI control and eradication, which had been in force for ten years, ensured the eradication of all subtypes of AI. The state of Durango had complied with all the OIE requirements to regain a disease-free status in the case of a low pathogenic AI infection and was AI-free for all subtypes. Thailand should therefore remove its temporary restrictions.

208. Thailand indicated that it had adopted a precautionary approach since the AI outbreaks over the last two years. Active surveillance had been put in place to control and eradicate the disease. Areas at risk had been scanned and movements of poultry and poultry products within the country

were under control. Thailand had temporarily banned some Mexican poultry exports from the infected state only.

UNITED STATES

CONCERNS RELATED TO MEASURES MAINTAINED BY THE UNITED STATES

Plant Health

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

Raised by:	European Communities
Supported by:	China
Dates raised:	July 2001 (G/SPS/R/22, paras. 30-31), March 2005 (G/SPS/R/36/Rev.1, paras. 58-60), June 2005 (G/SPS/R/37/Rev.1, paras. 70-71), October 2005/February 2006 (G/SPS/R/39, paras. 72-73)
Relevant document(s):	G/SPS/N/USA/1059
Solution:	Not reported

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

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

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

212. The United States recognized the importance of this issue to the European Communities and had taken a number of steps to ensure that the concerns were handled as expeditiously as possible. The United States was examining how and whether its import regulations for nursery stock, including

plants in growing media, might be changed. An advanced notice of proposed rulemaking had been published in December 2004, and all Members could provide comments on that proposal. The proposal sought to streamline the specific process questioned by both the European Communities and China. The United States hoped to publish a proposed rule for Schlumbergera from the European Communities in the near future.

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

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

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

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

216. United States - Restrictions on Ya pears imports

Raised by:	China
Supported by:	European Communities
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 37-39)
Relevant document(s):	
Solution:	Not reported

217. In March 2005, China reported that, at the end of 2003, the US Animal and Plant Health Inspection Service (APHIS) had suspended imports of Ya pears from China on the grounds that new species of the fungus *Alternaria sp*. had been found. The Chinese Government had undertaken cooperative studies with the United States and finally obtained a result satisfactory to both Chinese

and US specialists. However, US authorities had not yet made any decision based on the above results and imports of pears from China were still suspended.

218. The European Communities noted that it was also experiencing lengthy decision-making procedures when trying to export some plant products to the United States, and invited the United States to review its internal administrative procedures.

219. The United States clarified that imports of Ya pears from China were suspended in December 2003 due to repeated detections of the exotic fungus *Alternaria sp*.and that imports of these pears had already been suspended in previous years for a similar problem. In May 2004, China had been provided with a document describing the status of this organism as a pest of quarantine significance and the United States had been working closely with China to develop conditions that would allow the reopening of the market. After several bilateral discussions, agreement had been reached in November 2004 on a work plan stipulating that Chinese scientists would cooperate with US scientists to develop possible measures to mitigate the fungus. A protocol had been agreed in December 2004 to enable a test shipment of Ya pears to be imported for research purposes into the United States to evaluate the various mitigation measures.. Unfortunately, the collaborative research showed that even with all the mitigation measures in place, the infestation rate still significantly exceeded the one specified in the work plan of November 2004. *Alternaria sp*. was a newly identified species not known to exist in the United States, and a better understanding of this organism was necessary to develop appropriate mitigation measures. The United States would continue work with China to identify measures to reduce the level of infestation to an acceptable level so that the market might be reopened.

228. United States - Import procedures for fruits and vegetables

Raised by:	European Communities
Supported by:	Argentina
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 21-23)
Relevant document(s):	
Solution:	Not reported

220. In June 2005, the European Communities observed that EC exports of fruits and vegetables were experiencing lengthy inspection procedures that because of the highly perishable nature of the products, resulted in commercial losses. The US Animal and Plant Health Inspection Service (APHIS) also required that only US-produced pesticides be used during cultivation, some of which were not permitted within the European Communities. The European Communities requested the United States to accept the use of equivalent pesticides. Certain insects used to protect crops in the European Communities were not allowed entry into the United States. Other concerns included, inter alia, cold treatment import requirements and pre-clearance inspection procedures.

221. Argentina described the case of markets not attractive enough for the private sector to register a pesticide, so that no specific limit was fixed for the level of residues of this pesticide. On sanitary grounds, the default limit was zero or close to zero, which equalled prohibiting the products. The maximum limits established by Codex should be used by default in such cases.

222. The United States replied that its import procedures were transparent and WTO-consistent. Pesticide residue levels on fruits coming into the United States had to be approved by the US Environmental Protection Agency (EPA). Pesticides did not have to be produced in the United States, but to be registered on the EPA list of authorized pesticides. The United States imported very

substantial volumes of fresh fruits and vegetables from about 150 countries and the value of imports had increased by 97 per cent over the past ten years.

VENEZUELA

CONCERNS RELATED TO MEASURES MAINTAINED BY VENEZUELA

Other Concerns

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

Raised by:	Colombia, Canada
Supported by:	Chile, United States
Dates raised:	March 2002 (G/SPS/R/26, paras. 27-29), June 2004 (G/SPS/R/34, paras. 30-32), March 2005 (G/SPS/R/36/Rev.1, paras. 55-57, June 2005 (G/SPS/R/37/Rev.1, paras. 59-61), October 2005/February 2006 (G/SPS/R/39, paras. 76-78)
Relevant document(s):	Raised orally
Solution:	Not reported

223. In March 2002, Colombia observed that Venezuela was not granting sanitary certificates for potatoes, fresh mushrooms, fresh tomatoes, fertile eggs, day-old chicks and meat products and requested that Venezuela notify the measure which served as the basis for the discretionary granting or non-issuance of health certificates for Colombian exports, or to lift this measure. Chile, the United States and Canada supported the concerns expressed by Colombia.

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

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

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

227. In March 2005, Canada reiterated its long-standing concerns about discretionary import licensing being used by the sanitary and phytosanitary authorities of Venezuela to restrict imports of potatoes, onions and pork from Canada. There had recently been two substantive meetings with senior delegations from Caracas and Canada hoped this issue would soon be resolved.

228. The United States shared Canada's concerns regarding Venezuela's restrictive import licensing and SPS permit regimes. The United States was specifically concerned about: (1) Venezuela's use of SPS permits to enforce quotas based on economic rather than scientific justifications; (2) the lack of transparency and the apparent inconsistency of the import permit/license approval process which resulted in significant delays in the issuance of some permits and licences compared to others and which arbitrarily reduced the quantity approved for import compared to the requested amount; and (3) Venezuela's insistence on requiring importers and users of imported products to purchase domestically produced commodities in order to gain approval or permission to import.

229. Venezuela confirmed the fruitful consultations with Canada and hoped to report the resolution of this problem at the next Committee meeting.

230. In June 2005, Canada indicated that, without any SPS justification and despite having negotiated a sanitary agreement a few years ago, Venezuelan pork importers had never been able to obtain import permits from the Venezuelan sanitary authorities for Canadian pork. Permits for seed or table potatoes had not been issued for long periods of time. Bilateral efforts to resolve the problem were continuing.

231. The United States noted that if Venezuela's restrictive import regime was based on SPS permits as opposed to import licences, as Venezuela had implied in the Import Licensing Committee, Venezuela should explain the risk being addressed through this permit and supply the supporting risk assessment.

232. Venezuela took note of Canada's concerns and noted that bilateral negotiations were continuing.

233. In February 2006, Canada indicated that this issue was of long duration and frustration. Under the WTO rules, issuance of import permits was automatic unless there were underlying SPS concerns. Canadian table potatoes, onions and pork were being refused without any rationale. Unless Venezuela had identified legitimate SPS concerns, it should expeditiously issue import licenses for agricultural products from Canada on an automatic basis.

234. The United States reported its concern about the lack of progress on this issue as US exports of yellow corn, oilseeds and dairy products had been affected by the restrictions.

235. Venezuela noted that a number of the requests Canada had made in March had been addressed, and Venezuela had issued permits to import Canadian pork and potatoes. Venezuelan technicians were preparing a visit to Canada to inspect potatoes to be exported to Venezuela. Venezuela was willing to carry out additional bilateral meetings to find a mutually satisfactory solution to Canada’s concerns.

OTHER CONCERNS

Animal Health and Zoonoses

TSE concerns

193. Certain Members – General import restrictions due to BSE

Raised by:	European Communities
Supported by:	Canada, United States
Dates raised:	June 2004 (G/SPS/R/34, paras. 37-38), October 2004 (G/SPS/R/35, para.85-86), June 2005 (G/SPS/R/37/Rev.1, paras. 75-76)
Relevant document(s):	
Solution:	Partially resolved.

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

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

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

239. In June 2005, the European Communities reported that the number of countries that had lifted their respective bans on EC bovines and bovine products in accordance with OIE standards had been regularly growing, including also non-Members of the WTO. According to the revised BSE chapter of the Terrestrial Animal Health Code, many bovine derivate products, including deboned skeletal muscle and blood products, could be safely traded regardless of the BSE status of the exporting country. The European Communities invited the remaining WTO Members to replace their import bans with specific import requirements in accordance with OIE standards.

Other Animal Health Concerns

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

Raised by:	European Communities
Supported by:	
Dates raised:	March 2004 (G/SPS/R/33, para. 52), June 2004 (G/SPS/R/34, paras. 35-36), October 2004 (G/SPS/R/35, para.87), March 2005 (G/SPS/R/36/Rev.1, paras. 52-54)
Relevant document(s):	
Solution:	Several WTO members removed restrictions on some EC member States

240. In March 2004, the European Communities indicated that they recognized regionalization and based their policy on Article 6 of the SPS Agreement, while some Members did not give the same treatment to regionalization. The European Communities had provided evidence to the importing Member on regions free from the disease and access for inspection or any other relevant procedures as in accordance with Article 6. Nevertheless, EC member States continued to experience unjustified export restrictions related to assumed disease presence in those regions. For example, Germany, Belgium and the Netherlands had experienced import restrictions due to highly pathogenic avian influenza although they regained their disease free status in November 2003. France, Italy and Spain experienced unjustified restrictions related to classical swine fever due to the non-application of the principle of regionalization. Furthermore, all EC member States were officially free of FMD but continued to face unjustified import restrictions. The European Communities urged all Members to respect the obligations of the SPS Agreement on regionalization and recognize the disease free status of EC member States and remove unjustified import restrictions

241. In June 2004, the European Communities stated that some WTO Members failed to recognize that all EC member States were officially free of FMD according to the OIE criteria. No new outbreaks of FMD had been recorded in the territory of the European Communities since 2002. The European Communities considered the epidemic to be under control and the disease completely eradicated. According to the OIE rules, countries could recover free status three months after the last identified case when a stamping out policy and serological surveillance were applied. There was no scientific justification for restrictive measures on EC products due to FMD.

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

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

244. In March 2005, the European Communities again drew attention to the fact that some WTO Members continued to apply unjustified restrictions on EC exports of animal products despite the fact that the whole EC territory was officially free of FMD. No new outbreaks of FMD had been recorded in the territory of the European Communities since 2002 and FMD was completely eradicated. Austria had last experienced an FMD outbreak in 1981 and some WTO Members still refused to recognize it as free from FMD. resulting in a complete ban on imports of animal products from this country. The European Communities urged all Members to respect the obligations of the SPS Agreement with regard to recognition of disease-free status and to remove all unjustified import restrictions.

245. The European Communities was in the position to demonstrate to importing WTO Members which regions of the European Communities could safely export live pigs, pork meat and pork meat products and which regions could not. Spain was officially free from classical swine fever since July 2002, according to international standards. However some WTO Members continued to apply a ban on imports of pork meat products from Spain. According to Article 2 of the SPS Agreement, there was no scientific justification to ban imports of products from a country where a disease did not exist. The European Communities urged all Members to respect the obligations of the SPS Agreement with regard to the recognition of disease free status for classical swine fever and to remove all related unjustified import restrictions on live pigs, pork meat and pork meat products not only from Spain but from all other EC member States free of the disease.

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

Raised by:	European Communities
Supported by:	
Dates raised:	October 2005/February 2006 (G/SPS/R/39, paras. 46-48)
Relevant document(s):	
Solution:	Not reported

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

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

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