WORLD TRADE ORGANIZATION

G/SPS/GEN/204/Rev.13

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Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

NOTE BY THE SECRETARIAT[1]

Revision

At the 15-16 March 2000 meeting of the SPS Committee, the Secretariat was requested to prepare a paper summarizing the specific trade concerns that had been brought to the Committee's attention since 1995.[2] The Secretariat has revised this document annually to include new information provided by Members (G/SPS/GEN/204/Rev.1 to 12). The specific trade concerns in the thirteenth revision of G/SPS/GEN/204 maintain the previously assigned numbers according to the chronological order of the Committee meetings in which they were first raised. These numbers serve as unique identifiers and are intended to facilitate tracking of individual trade concerns over time. The new trade concerns raised in each Committee meeting are numbered in the order of the alphabetic list of Members maintaining the measures.

The thirteenth revision of G/SPS/GEN/204 is divided into two sections:

a. STCs general overview; and

b. STCs discussed in 2012.

Section 1 of the document contains summary statistics and graphs for all the trade concerns raised in the SPS Committee between the first regular meeting of 1995 and the last regular meeting of 2012. The trade concerns are categorized as relating to food safety, animal or plant health. This section also includes a summary table which identifies for each specific trade concern according to the assigned number, the Member(s) maintaining the measure, the Member(s) raising the concern, as well as information on whether the issue has been reported to have been resolved.

Section 2 of the document contains information regarding all issues which were raised in the SPS Committee in 2012. This includes (1) issues raised for the first time in 2012; (2) issues which were previously raised and on which further discussions or activities occurred during 2012; and (3) issues for which there was no substantive discussion in the Committee during 2012, 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 2012 (e.g., establishment of a dispute resolution panel on the issue).

[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.

[2] G/SPS/R/18, para.20.

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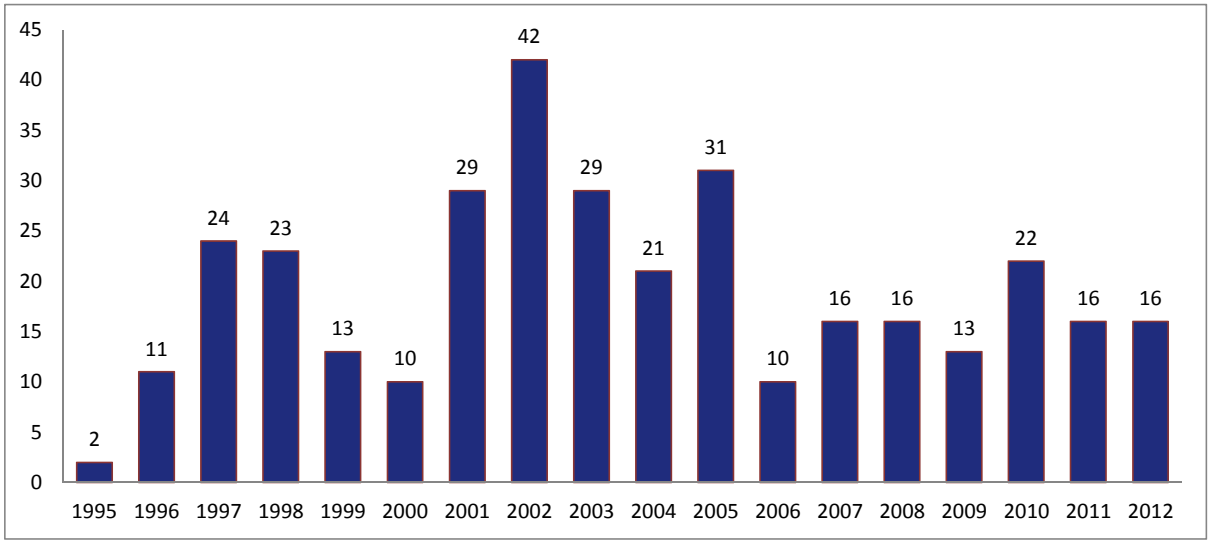
1 STCS GENERAL OVERVIEW

1.1. Altogether, 344 specific trade concerns were raised in the 18 years between 1995 and the end of 2012. Chart 1.1 shows the number of new concerns raised each year; 16 new concerns were raised in 2012.

Chart 1.1 – Number of New Issues Raised



1.2. Chart 1.2a categorizes the trade concerns raised over the 18 years into food safety, animal or plant health issues. Overall, 30% of trade concerns relate to food safety concerns, 24% relate to plant health, and 6% concern other issues such as certification requirements or translation. 40% of concerns raised relate to animal health and zoonoses. The animal health and zoonoses category is further divided into foot-and-mouth disease (FMD), transmissible spongiform encephalopathies (TSEs), avian influenza (AI) and other animal health concerns (OAH). Chart 1.2b shows that TSEs account for 33% of animal health concerns, while issues related to foot-and-mouth disease and to avian influenza account for 24% and 9%, respectively. The remaining 34% relate to other animal health concerns.

Chart 1.2a – Trade Concerns by Subject

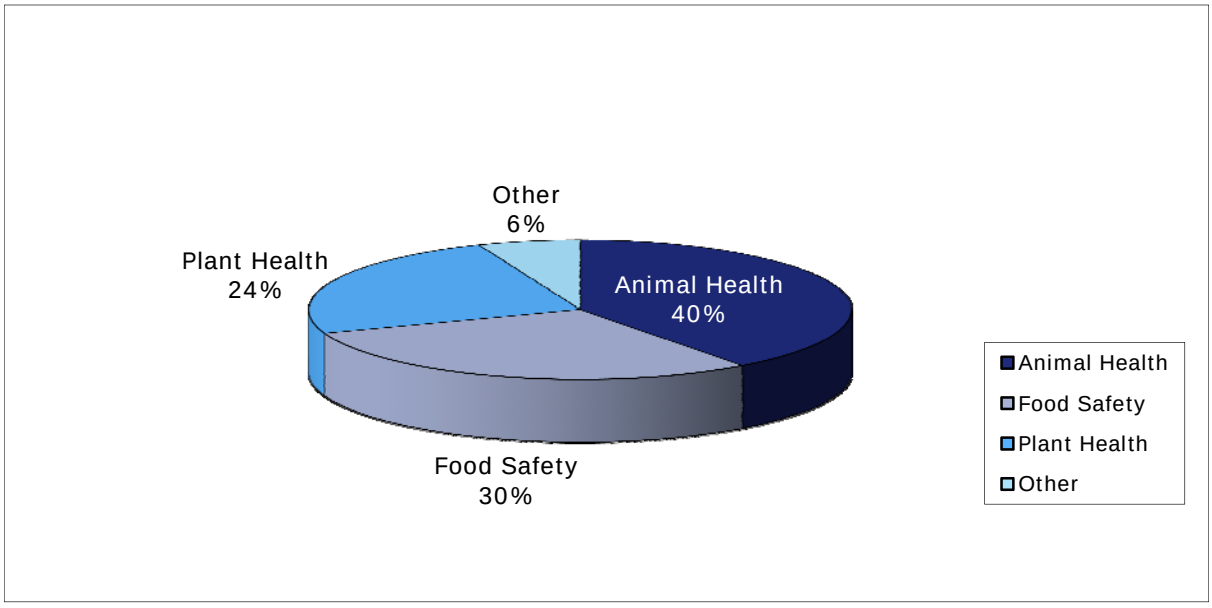
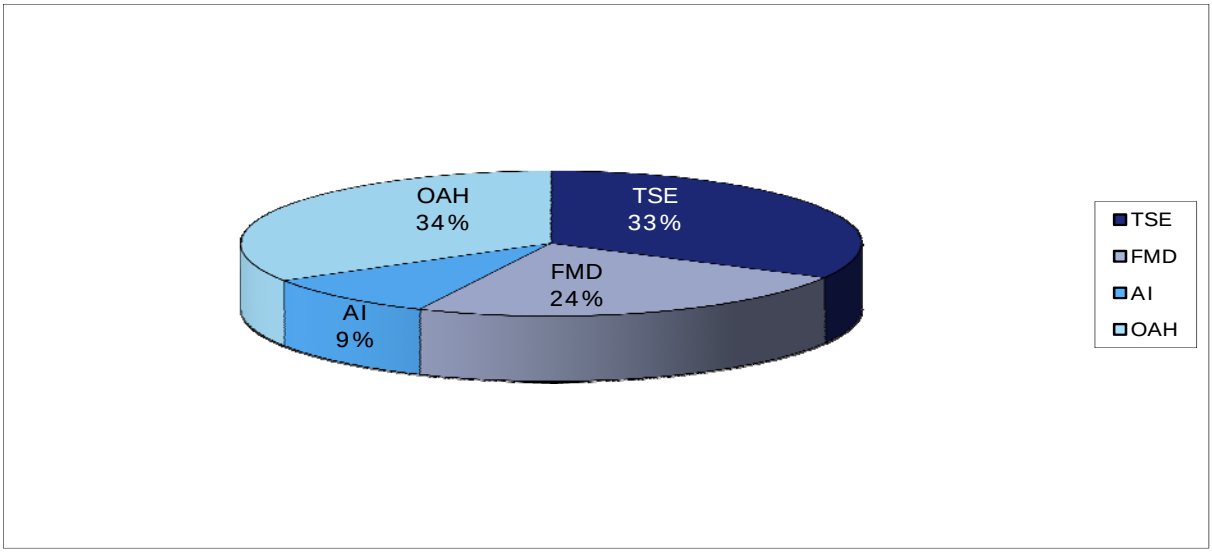
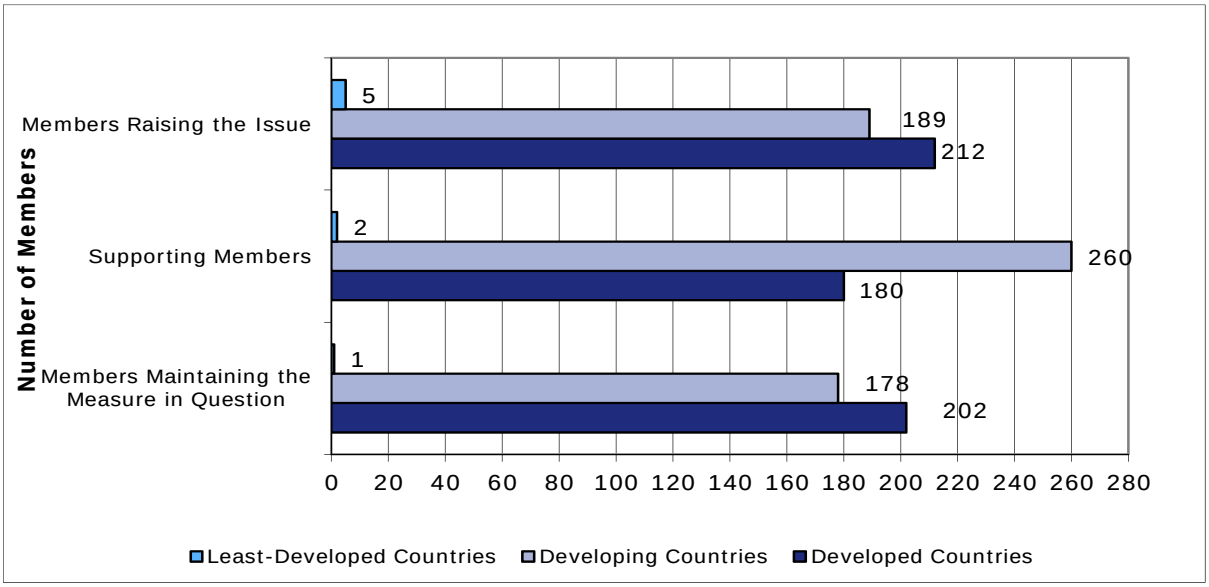


Chart 1.2b – Trade Concerns Related to Animal Health & Zoonoses



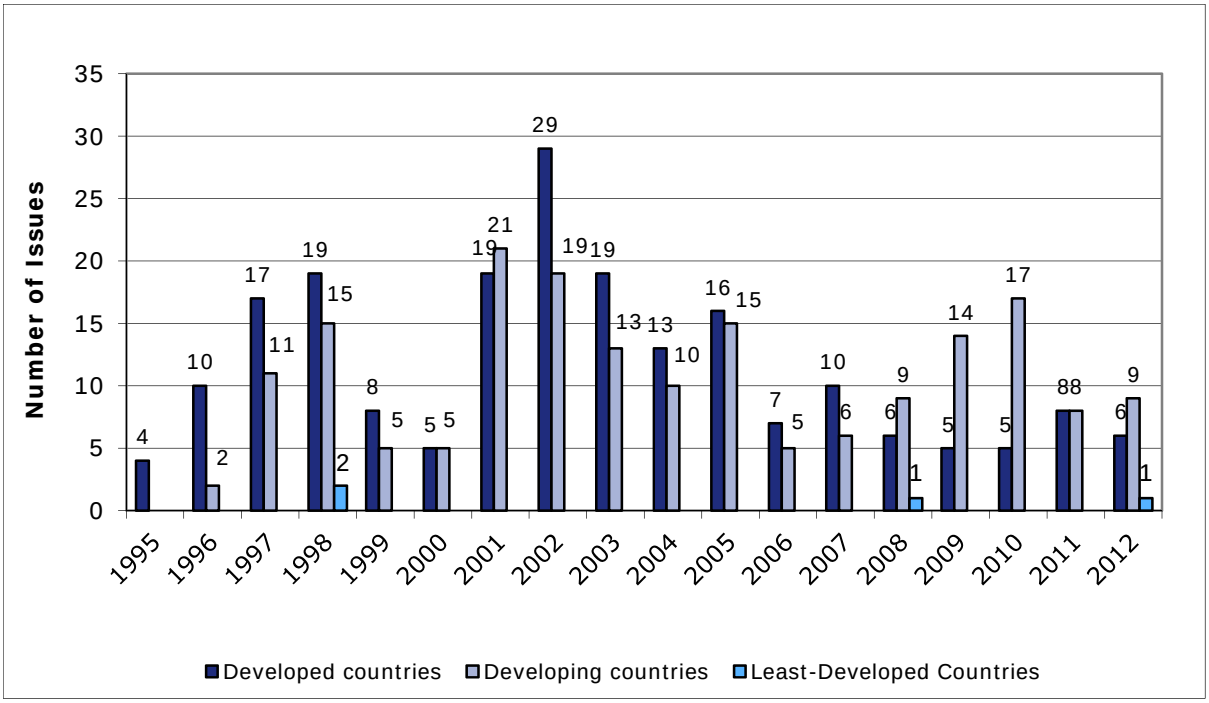
1.3. Developing countries are participating actively under this agenda item in the SPS Committee meetings. Chart 1.3a indicates that over the 18 years, developing country Members have raised 189 trade concerns (on many occasions more than one Member has raised, supported or maintained an issue) compared to 212 raised by developed country Members and five raised by least-developed country Members.[3] A developing country Member has supported another Member raising an issue in 260 cases, compared to 180 for developed country Members and two for least-developed country Members. In 202 cases, the measure at issue was maintained by a developed country Member, and in 178 cases it was maintained by a developing country Member. One trade concern regarding measures maintained by least-developed country Members has been raised. Chart 1.3b shows the number of new issues raised each year by each category of Member.

Chart 1.3a – Participation by WTO Members (1995-2012)



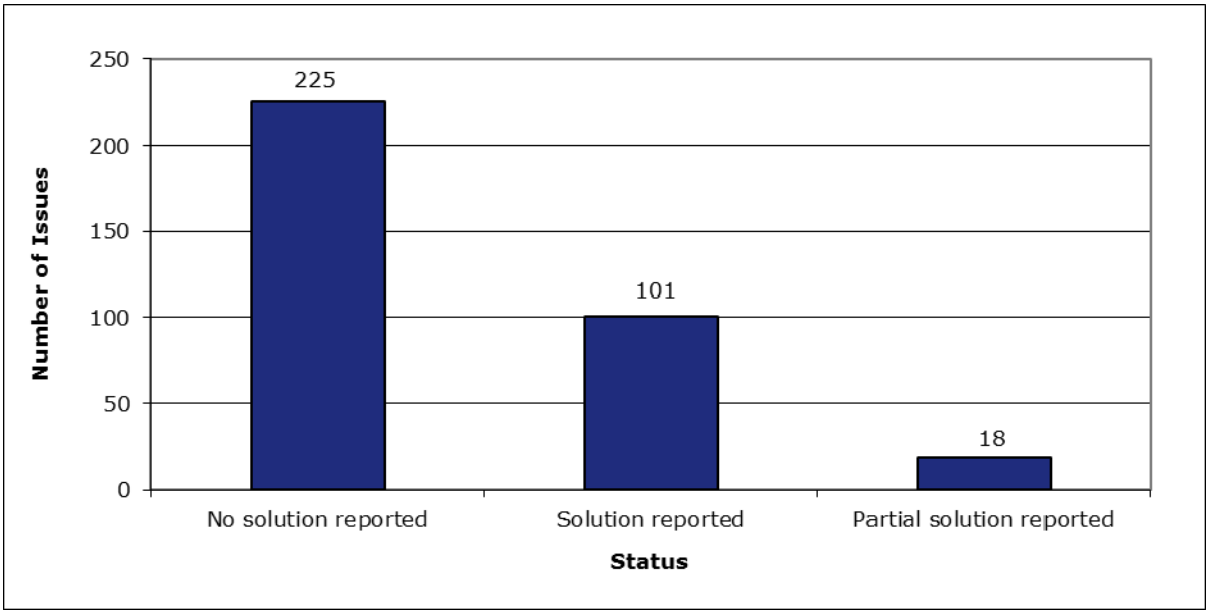
[3] On 1 December 2009, the *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community* (done at Lisbon, 13 December 2007) entered into force. On 29 November 2009, the WTO received a Verbal Note (WT/L/779) from the Council of the European Union and the Commission of the European Communities stating that, by virtue of the *Treaty of Lisbon*, as of 1 December 2009, the European Union replaces and succeeds the European Community. The European Union was counted as one Member. Similarly, when one Member spoke on behalf of ASEAN, it was counted as one Member only.

Chart 1.3b – Number of New Issues Raised by Members



1.4. Chart 1.4 indicates that 101 trade concerns have been reported resolved out of the 344 trade concerns raised over the 18 years. Three issues were reported as resolved in 2012, including one raised for the first time in 2012. Eighteen trade concerns have been reported to be partially solved. In these instances, trade may have been allowed for selected products or by some of the importing Members maintaining the measure in question. No solutions have been reported for the remaining 225 trade concerns. There are 210 trade concerns that are at least one year old and for which no solution has been reported. However, some of these concerns may have been resolved without the Committee being made aware of these developments.

Chart 1.4 – Solved Trade Concerns



List of Specific Trade Concerns (1995–2012)

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
		1995		
1	Shelf-life requirements	Korea, Republic of	Australia, Canada, United States of America	PR
2	Import clearance measures and practices	Korea, Republic of	United States of America	R
		1996		
3	Restrictions on gelatin imports	Norway	Brazil	R
4	Measures related to BSE	Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Czech Republic, France, Germany, Italy, Netherlands, Poland, Romania, Singapore, Slovak Republic, Slovenia, Spain, United States of America	Switzerland	R
5	Import requirements for wine	Brazil	European Union	NR
6	Importation of cheese	Canada	European Union	R
7	Regionalization in relation to animal health	United States of America	European Union	NR
8	Ban on salmon imports	Australia	Canada, United States of America	R
9	Zero-tolerance for salmonella in imported poultry products	Chile, Czech Republic, El Salvador, Honduras, Slovak Republic	United States of America	NR
10	Imports of potatoes	Czech Republic	European Union	R
11	Restriction on levels of copper and cadmium in imported squid	Spain, European Union	United States of America	R
12	Testing requirements for different varieties of apples, cherries and nectarines	Japan	United States of America	R
13	Translation of regulations	Japan; Korea, Republic of	Argentina	NR
		1997		
14	Restrictions on imported wheat	Brazil	United States of America	R
15	Zoosanitary import policies pertaining to BSE	Canada	European Union	NR
16	Restrictions on imports of wheat and fruit	Chile	United States of America	R
17	Cosmetics and BSE	European Union	Australia	NR
18	Certification requirements for pet food	France, European Union	United States of America	NR
19	Protected zones	European Union	Uruguay	NR

[4] NR= Not Reported, P = Partially resolved, R = Resolved.

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
20	Restrictions on imports of rough rice	Honduras	United States of America	R
21	Fresh fruit and vegetables	Indonesia	Australia, United States of America	NR
22	Measures affecting imports of bovine meat	Israel	Uruguay	R
23	Plant quarantine regulations	Japan	United States of America	NR
24	Requirements for certification of consumer rice	Panama	United States of America	R
25	Restrictions on wheat and oilseeds	Poland	United States of America	NR
26	Phytosanitary issues in general	Certain Members	United States of America	NR
27	Citrus canker	European Union	Argentina	R
28	Notification on wheat, rye and triticale	Switzerland	Argentina	R
29	Measures related to avian influenza	Venezuela, Bolivarian Republic of	United States of America	NR
30	Regulation concerning warehouses and silos	Czech Republic	European Union	R
31	Rules on "specified risk materials" in products of animal origin	European Union	United States of America	NR
32	Gelatin imports	European Union	Brazil, United States of America	PR
33	Salmonella-related restriction on fishmeal imports	European Union	Chile, Peru	NR
34	Measures regarding FMD	Japan	Argentina, European Union	NR
35	Import ban on frozen poultry	Korea, Republic of	Thailand	R
36	Import prohibition of milled rice	Mexico	Thailand	R
37	Actions taken by local governments	United States of America	Chile	NR
		1998		
38	Temporary prohibition of fresh pork and products	Argentina	European Union	R
39	Maximum levels for certain contaminants (aflatoxins) in foodstuffs	European Union	Argentina; Australia; Bolivia, Plurinational State of; Brazil; The Gambia; India, Indonesia; Malaysia; Philippines; Senegal; Thailand	R

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
40	Trade restrictions in response to cholera	European Union	Tanzania	PR
41	Restrictions on imports of apples, pears and quinces	Slovak Republic	Hungary	R
42	Import restrictions on potatoes	Slovak Republic	Poland, European Union	R
43	Prohibition on bone-in beef imports from EC member States	South Africa	European Union	NR
44	Measures related to BSE	United States of America	European Union	NR
45	Import restrictions on cheese	Australia, New Zealand	European Union, Switzerland	R
46	Import prohibition of coconut palms and related products	Brazil	Philippines	NR
47	Measure on establishments operating in the animal feed sector	European Union	United States of America	NR
48	Import ban on livestock	Turkey	Hungary, United States of America	PR
49	Restrictions on imports of sauces containing benzoic acid	Australia	Philippines	R
50	Quarantine requirements for chicken meat	Australia	Thailand	NR
51	Prohibition of poultry meat imports	Czech Republic	Thailand	R
52	Measures on food treated with ionizing radiation	European Union	United States of America	NR
53	Emergency measures on citrus pulp	European Union	Brazil	R
54	Notifications regarding import requirements on meat and eggs	Switzerland	United States of America	R
55	TSE-related import restrictions of live cattle	Israel	European Union	NR
56	Notification on amendment of the Japanese Plant Protection Law	Japan	United States of America	NR
57	Requirements for imports of milk and milk products	Poland	European Union	R
58	Notification on refrigeration and labelling requirements for shell eggs	United States of America	European Union	NR
59	Interim rule affecting solid wood packaging material	United States of America	Hong Kong, China	NR
		1999		
60	Import restrictions on bovine semen and embryos, milk and milk products	Argentina	European Union	R

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
61	Import restrictions on bovine semen	India	Canada, European Union	PR
62	Restrictions on imports of horses	India	European Union	NR
63	Information on dioxin	Certain Members	European Union	R
64	Ban on antibiotics in feed	European Union	United States of America	NR
65	Import restrictions on beef	Korea, Republic of	Argentina	NR
66	Notifications related to dioxin	Malaysia, Singapore	Switzerland	R
67	Import restrictions on beef	Mexico	Argentina	NR
68	Notifications on veterinary measures and measures on animal products including gelatin	Poland	Switzerland, United States of America	R
69	Import restrictions on rhododendrons in growing medium	United States of America	European Union	R
70	Import conditions for pork meat and products	Venezuela, Bolivarian Republic of	European Union	NR
71	Restrictions on meat and dairy products	El Salvador	Uruguay	R
72	Measures regarding canned tuna in oil	Belgium, European Union	Philippines	NR
73	Imports of citrus fruit	United States of America	Argentina	R
		2000		
74	Restrictions on imports of tropical fresh fruit	Australia	Philippines	NR
75	Notification on meat and meat products	Iceland	Argentina	R
76	Ban on pet food imports	Turkey	Hungary	R
77	Restrictions on canned tuna	Egypt	Thailand	NR
78	Notification on methyl bromide	Australia	European Union	R
79	Import restrictions on durian	Australia	Thailand	NR
80	Restrictions on poultry meat imports	Bolivia, Plurinational State of	Chile	R
81	Wood packing material	European Union	Canada	R
82	Restrictions on importation of fresh fruit	Indonesia	New Zealand	R
83	Restrictions on milk powder imports	Panama	European Union	R
		2001		
84	Import restrictions affecting BSE-free countries	Argentina; Australia; Canada; Korea, Republic of; New Zealand; United States of America	Bulgaria, Croatia, Czech Republic, Estonia, Latvia, Poland, Romania, Slovak Republic, Slovenia	NR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
85	Import restrictions on prawns and prawn products; revised generic IRA for prawns and prawn products	Australia	China, Thailand	NR
86	Access of California table grapes	Australia	United States of America	R
87	Measures affecting imports of products containing Brazilian beef	Canada	Brazil	R
88	Import restrictions due to FMD	Canada, United States of America	Hungary	NR
89	Import restrictions on soy sauce	European Union	Thailand	NR
90	Restrictions on bovine products	Hungary	Canada	R
91	Restrictions on pork products	Hungary	Canada	R
92	Restrictions on banana imports	Turkey	Ecuador	R
93	Phytosanitary requirements for potatoes, garlic and onions	Venezuela, Bolivarian Republic of	Argentina	NR
94	Directive 2000/42 on pesticide residues	European Union	Côte d'Ivoire	NR
95	Legislation on the fungicide thiabendazole (TBZ)	European Union	Israel	NR
96	Geographical BSE risk assessment	European Union	Canada, Chile, India	R
97	Restrictions on the use of fishmeal	European Union	Chile, Norway, Peru	NR
98	Restrictions on Egyptian potatoes	European Union	Egypt	NR
99	Restrictions on importation of sugar cane top	Japan	Indonesia	NR
100	Import measures on apples due to fire blight	Japan	United States of America	R
101	Proposed import prohibition of commodity-country combinations of fresh cut flowers and foliage	New Zealand	European Union	R
102	Import restrictions on potted plants	United States of America	European Union	NR
103	FMD-related import restrictions	Certain Members	Argentina, European Union	PR
104	FMD restrictions	Chile	Argentina	R
105	Restrictions on apples and pears	Cuba	Argentina	NR
106	Regulations on genetically modified food and feed	European Union	United States of America	PR
107	Transitional TSE measures	European Union	Canada	R
108	Cut flowers	European Union	Ecuador, Israel	NR
109	Phytosanitary regulations (Canary Islands)	Spain, European Union	Argentina	NR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
110	Agricultural biotechnology approval process	European Union	United States of America	PR
111	FMD restrictions	Indonesia	Argentina	NR
		2002		
112	FMD trade restrictions	Bolivia, Plurinational State of	Argentina	R
113	Pet food import requirements	Chile	Argentina	R
114	Food safety regulations affecting agricultural products produced from modern biotechnology	China	United States of America	NR
115	Import restrictions for citrus and other fruits related to fruit fly	China	Argentina	R
116	FMD restrictions	Colombia	Argentina	R
117	Traceability and labelling of genetically modified organisms and food and feed	European Union	Argentina, Canada, United States of America	NR
118	Import licenses for agricultural products	Panama	Canada	R
119	Notification on Chinese fruit imports	Philippines	China	PR
120	Restrictions on pigmeat	United States of America	European Union	NR
121	Imports of clementines	United States of America	European Union	R
122	FMD Restrictions	Venezuela, Bolivarian Republic of	Argentina	R
123	Restrictions on imports of potatoes, onions, fertilised eggs, day-old chicks and meat products	Venezuela, Bolivarian Republic of	Canada, Colombia	NR
124	Notifications related to avian influenza	Certain Members	United States of America	NR
125	BSE related measures	Argentina	Canada	R
126	Import requirements for seed potatoes	Brazil	Canada, European Union	R
127	Import ban on products of Dutch origin	China	European Union	R
128	Import requirements for cosmetics	China	European Union	NR
129	Import restrictions on spiced pork and salted meat products	Cuba	Argentina	R
130	Restrictions on shellfish	European Union	Indonesia	NR
131	Pesticide and antibiotic limits in honey (Directive 96/23)	European Union	Cuba	NR
132	Import restrictions on dairy products	Indonesia	Argentina	R
133	Official control restrictions on citrus and other fresh fruits and vegetables	Japan	New Zealand, United States of America	NR
134	SPS measures on animal products	Romania	Moldova, Republic of	NR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
135	Restrictions on beef and pork	South Africa	Brazil	PR
136	Policies regarding quarantine and non-quarantine pests	Chinese Taipei	United States of America	NR
137	Import restrictions on meat and meat products	United States of America	Switzerland	NR
138	Pest risk assessment requirements	Argentina	United States of America	NR
139	Restriction on pigmeat	Australia	European Union	R
140	Imports of live ostriches	Brazil	European Union	R
141	Pest risk assessments for imports of plant origin	Brazil	Canada	NR
142	Zero tolerance for *e-coli*	China	United States of America	NR
143	Regulation on wood packaging material	China	European Union	R
144	Restrictions on the importation of fruits and fruit juices	European Union	Brazil	NR
145	Import restrictions on chicken meat imports	Honduras	Costa Rica	NR
146	Ban on hormones in animal production	Indonesia	United States of America	NR
147	Regulation on food additives	Japan	European Union	NR
148	Amendment of the food sanitation law	Japan	China	NR
149	Restrictions on food products	Panama	European Union	R
150	Certification of meat and dairy products	Philippines	Canada	R
151	Restrictions on imports of pork sausages and other pork products	Trinidad and Tobago	Argentina	NR
152	Restrictions on melons	United States of America	Mexico	NR
153	Restrictions on imports of Chinese potted plants in growing medium	United States of America	China	NR
154	Risk assessment on BSE	Uruguay	Canada, United States of America	PR
		2003		
155	Import requirements for Netherlands truss tomatoes	Australia	European Union	R
156	Notification G/SPS/N/BRA/74 and G/SPS/N/BRA/75 on BSE-related measures	Brazil	Canada	R
157	Quarantine measures for the entry and exit of aquatic products	China	European Union	R
158	Restrictions on pork imports	Croatia	Slovenia	NR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
159	Proposal on animal by-products	European Union	United States of America	NR
160	Transitional BSE measures	European Union	United States of America	NR
161	EC Directive 2001/661/EC on foot and mouth disease	European Union	South Africa	NR
162	Fumigation standards	Japan	United States of America	NR
163	Restrictions on Austrian products	Mexico	European Union	NR
164	Restrictions on the importation of dry beans	Mexico	United States of America	R
165	Import restrictions on Spanish olive oil	Bahrain, Kingdom of; Kuwait, the State of; Oman; Qatar; United Arab Emirates	European Union	PR
166	Import measures on live animals and meat products	Croatia	Hungary	R
167	Restrictions on honey imports	European Union	United States of America	R
168	Maximum levels for aflatoxins in corn and sampling contaminants in food	European Union	Argentina	NR
169	EC proposed regulation on maximum residue levels of pesticides	European Union	Argentina, China	NR
170	Live animals and animal products	European Union	Australia	NR
171	Animal health conditions and certification requirements for live fish	European Union	Australia	NR
172	Restrictions on imports of mangoes	Japan	Brazil	R
173	Notification on uses of living modified organisms	Japan	Australia	NR
174	Notification on transboundary movement of living modified organisms	Korea, Republic of	Australia	NR
175	Notification on food and feed controls	European Union	United States of America	NR
176	Notification on maximum tolerance levels for Ocratoxin A in coffee	Germany, European Union	Colombia, Papua New Guinea	NR
177	Sanitary conditions for the importation of live material for apiculture	European Union	Argentina	NR
178	Revision of standards and specifications for food and additives	Japan	China	NR
179	Guidelines for maximum residue level (MRL) testing	Korea, Republic of	United States of America	NR
180	Heat treatment for meat and bone meal in poultry for pet food	Chinese Taipei	United States of America	R

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
181	Import restrictions on potatoes	Chinese Taipei	New Zealand	R
182	Implementation of ISPM 15	United States of America	Argentina	R
183	Implementation of ISPM 15	Certain Members	Chile, Uruguay	NR
		2004		
184	Lack of transparency for certain SPS measures	China	United States of America	NR
185	Restrictions due to avian influenza	India	European Union, United States of America	NR
186	Phytosanitary import restrictions	India	European Union, United States of America	PR
187	FMD restrictions	Panama	Argentina	NR
188	Delisting of France from countries authorized to export certain meat and meat products to the United States	United States of America	European Union	R
189	Prohibition on the use of specified risk materials and requirements for disabled cattle	United States of America	Argentina	NR
190	Regionalization and recognition of animal disease free status	Certain Members	European Union	PR
191	Maximum residue levels for pesticides on food	European Union	China	NR
192	Non-notification of various SPS measures	India	United States of America	NR
193	General Import Restrictions due to BSE	Certain Members	European Union, United States of America	PR
194	Restrictions on fresh grapes	Australia	Chile	R
195	Restrictions on citrus	Barbados	Venezuela, Bolivarian Republic of	NR
196	Measures on US poultry	China	United States of America	R
197	Regulation on Ocratoxin A in coffee	European Union	Colombia	NR
198	Regulation on aflatoxins and Ocratoxin A in foods for infants and young children	European Union	China	NR
199	Deviation from international standard for wood packing material	Spain, European Union	United States of America	NR
200	Ban on food grade wax	India	United States of America	NR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
201	Standards and specifications for food additives (boscalid)	Japan	China	NR
202	Septoria controls on horticultural products	Korea, Republic of	United States of America	R
203	Rule on materials derived from cattle and record-keeping requirements	United States of America	Argentina, China	NR
204	Notification by Members of implementation of ISPM 15	Certain Members	European Union	R
		2005		
205	Slaughter of imported breeding cattle	Bolivia, Plurinational State of	Mexico	NR
206	Inspection and testing procedures for imported wheat	Greece, European Union	Canada	R
207	Directives on residual pesticide tolerance and inspection methods for tea	European Union	China	NR
208	Food and feed hygiene rules	European Union	Canada	NR
209	Plant health directive	European Union	United States of America	NR
210	Restrictions on imports of chicken meat	Guatemala	Mexico	NR
211	Restrictions on the transit of avocados	Guatemala	Mexico	NR
212	Positive list system for pesticides, veterinary drugs and feed additives MRLs	Japan	China, United States of America	NR
213	Restrictions on beef imports	Japan	United States of America	NR
214	Inspection regime for food processing establishments	Panama	United States of America	R
215	Public Health Regulation 11	Thailand	United States of America	NR
216	Restrictions on Ya pears imports	United States of America	China	NR
217	Import restrictions on apples	Australia	New Zealand	NR
218	Lack of recognition of regionalization and disease-free status for classical swine fever	Brazil	European Union	NR
219	EurepGAP requirements for bananas	European Union	Saint Vincent and the Grenadines	NR
220	Proposed regulations for piper methysticum (kava-kava)	United Kingdom, European Union	Fiji	NR
221	Safety insurance and quality improvement standards for feed and feed additives	Japan	China	NR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
222	Import suspension of heat-processed straw and forage for feed	Japan	China	R
223	Import requirements for Indian mangoes	Japan	India	NR
224	Restrictions on EC exports of plant and animal products	Japan	European Union	NR
225	Restrictions on US poultry	Mexico	United States of America	NR
226	Inspection regime for agricultural products	Panama	Costa Rica	R
227	BSE-related import restrictions on non-ruminant products	Chinese Taipei	United States of America	NR
228	Import procedures for fruits and vegetables	United States of America	European Union	NR
229	Import restrictions on Enoki mushrooms	Canada	Chinese Taipei	R
230	Phytosanitary requirements on fresh oranges	Costa Rica	Nicaragua	NR
231	Restrictions on cinnamon	European Union	Sri Lanka	R
232	Import restrictions on EC beef due to BSE	Israel	European Union	NR
233	Phytosanitary import legislation	Israel	European Union	R
234	Suspension of importation of live poultry and poultry carcasses	Thailand	Mexico	NR
235	Import restrictions on EC exports of live birds, meat, meat products and other derivates due to avian influenza	Certain Members	European Union	PR
		2006		
236	Restrictions on beef exports under the Hilton Quota	Argentina	European Union	R
237	Lack of regionalization for Newcastle disease and restrictions on live birds	Brazil	European Union	NR
238	Application and modification of the EU Regulation on Novel Foods	European Union	Colombia, Ecuador, Peru	NR
239	Tolerance levels for soil content on potato tubers	Dominican Republic	Canada	NR
240	Biotech labelling and import approval process regulations	India	United States of America	NR
241	Import restrictions on wooden Christmas trees	United States of America	China	NR
242	Restrictions on US poultry exports	European Union	United States of America	NR
243	Lack of recognition of pest-free areas	Indonesia	United States of America	PR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
244	Importation of live animals and meat products	Indonesia	Brazil	NR
245	Restrictions on US pork and poultry imports	Romania	United States of America	NR
		2007		
246	Import restrictions on products of animal origin due to dioxin	China	European Union	R
247	BSE-related measures on beef products	Korea, Republic of	Canada	R
248	Regionalization for bovine and pig meat products	Korea, Republic of	Brazil	NR
249	Reform of Australia's IRA process	Australia	European Union	NR
250	Trade restrictions related to national systems for determining maximum residue levels (MRLs) for pesticides	Certain Members	Argentina	NR
251	Zero tolerance for pathogens on raw meat and poultry products	China	United States of America	NR
252	Zero tolerance for salmonella in poultry and eggs	El Salvador	United States of America	NR
253	Export certification requirements for dairy products	India	United States of America	NR
254	Animal health requirements for poultry meat	El Salvador	United States of America	NR
255	Application of regionalization and prohibition of bovine meat	China	Brazil	NR
256	Import restrictions on cooked poultry products from China	European Union	China	PR
257	Import restrictions on cooked poultry products from China	United States of America	China	R
258	Import restrictions on beef and beef products due to Blue Tongue disease	Certain Members	European Union	NR
259	Avian influenza restrictions	China	United States of America	NR
260	Requirements for quarantine treatment of aircraft	Chile	Argentina	R
261	Varietal restrictions on US apples	China	United States of America	NR
		2008		
262	Restrictions on heat-treated products in relation to avian influenza	Egypt	European Union	NR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
263	Import restrictions on cooked and frozen meat	Mexico	Brazil	NR
264	Maximum residue levels for Ethephon in pineapple	European Union	Ecuador	NR
265	Regulatory process economic analysis requirement	United States of America	Brazil	NR
266	Price list for inspections	Malaysia	Brazil	NR
267	Pesticide maximum residue level (MRL) enforcement system	Japan	United States of America	NR
268	Import restrictions on EC dairy products	United States of America	European Union	NR
269	Restrictions on apples	United States of America	China	NR
270	Import restrictions on rice	Mexico	Pakistan	R
271	Restrictions on imports of swine meat	Mexico	Brazil	NR
272	Rapid Alert System regarding mango imports	European Union	Senegal	NR
273	Health certificate ratification by national embassies	Oman, Certain Members	European Union	NR
274	Korea's Livestock Epidemic Prevention Act	Korea, Republic of	Canada	NR
275	Restrictions on ractopamine in beef and pork	Chinese Taipei	United States of America	NR
276	Maximum residue levels for pesticides in cacao	European Union	Ecuador	NR
277	NAPPO draft standard for ships and cargoes from areas infested with Asian gypsy moth	Canada, Mexico, United States of America	China	NR
	2009			
278	Hygiene standard for distilled spirits and integrated alcoholic beverages	China	Mexico	NR
279	Import restrictions on pork products due to influenza A/H1N1	Armenia; Bahrain, Kingdom of; China; Gabon; Indonesia; Jordan; Suriname	Mexico	NR
280	New meat import conditions	Indonesia	European Union	NR
281	Import restrictions on gelatine from bovine hides and head skin due to BSE requirements	Colombia	Brazil	NR
282	Measures on food products containing meat, poultry or processed egg products	United States of America	China	NR
283	Pesticide maximum residue levels (MRLs)	Japan	Brazil	NR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
284	Rule on importation of wooden handicrafts from China	United States of America	China	NR
285	Import restrictions on fresh pork meat and beef	United States of America	Brazil	NR
286	Import restrictions on poultry meat	Indonesia	Brazil	NR
287	Import restrictions on fresh pork meat and beef	South Africa	Brazil	NR
288	Import measures on animals and animal products	Ukraine	European Union	R
289	Measures on catfish	United States of America	China	NR
290	Suspension of inspection and delivery of plant and animal health certificates for imports	Venezuela, Bolivarian Republic of	Colombia	NR
		2010		
291	BSE Measures	Chinese Taipei	Canada	NR
292	Prohibition of ornamental plants larger than 18 inches	United States of America	Costa Rica	R
293	Risks arising from Carambola fruit fly in French Guyana	France	Brazil	NR
294	Import restrictions on plant and plant products	Malaysia	Brazil	NR
295	Artificial colour warning labels	European Union	United States of America	NR
296	SPS notification practices	China	European Union	NR
297	Registration requirement for pet food export enterprises	Canada	China	NR
298	Import restrictions on Brazilian beef	Colombia	Brazil	NR
299	US 2009 Food Safety Enhancement Act	United States of America	China, India	NR
300	EC Regulation No. 1099/2009	European Union	India	NR
301	US risk analysis for the entry of queen bees	United States of America	Argentina	NR
302	Restrictions on products derived from biotechnology	Turkey	United States of America	NR
303	Import restrictions on poultry meat	Senegal	Brazil	NR
304	Proposed MRL for 1-Methylcyclopropene in bananas	Canada	Ecuador	NR
305	Import restrictions on beef and recognition of the principle of regionalization	Indonesia	Brazil	NR
306	Maximum Residue Levels of pesticides	European Union	India	NR
307	Prohibition of certain food additives	Japan	India	NR

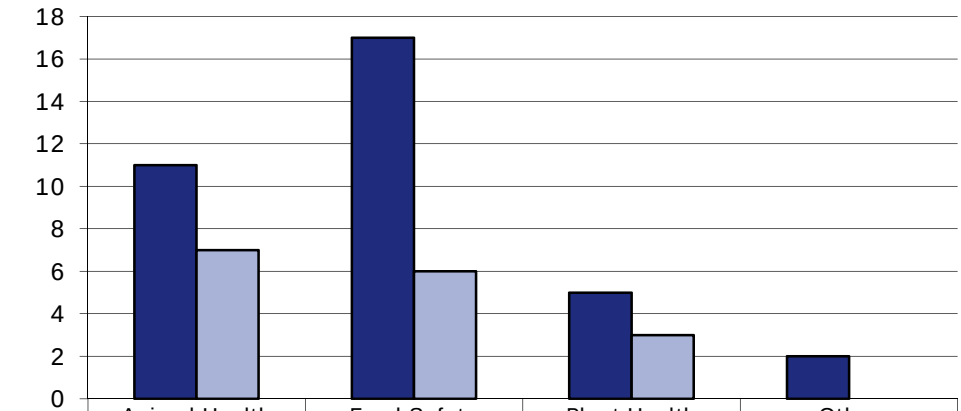
Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
308	Restrictions on bovines and bubalines for reproduction	Brazil	Colombia	NR
309	Labelling of products of animal origin	Brazil	European Union	NR
310	Measures on canned sardines	Brazil	Morocco	NR
311	Restrictions on poultry and poultry products	Albania, Croatia	Chile	R
312	Restrictions on beef exports due to BSE-related concerns	Mexico	Nicaragua	NR
		2011		
313	Import restrictions due to dioxin contamination in Germany	Certain Members	European Union	NR
314	Ban on offals	Viet Nam	European Union, United States of America	NR
315	Ukraine import restrictions on poultry and poultry products	Ukraine	Mexico	NR
316	United States import restrictions on chrysanthemums	United States of America	Costa Rica	NR
317	Mexico's BSE measures	Mexico	Canada	NR
318	US failure to recognize South Patagonia as FMD-free and to import beef from north of the 42nd parallel	United States of America	Argentina	NR
319	Chinese quarantine and testing procedures for salmon	China	Norway	NR
320	Restrictions on imported fresh meat	Philippines	United States of America	NR
321	Japan's MRLs applied to sesame	Japan	Paraguay	NR
322	Polyamide and melamine plastic kitchenware	European Union	China; Hong Kong, China	NR
323	Import restrictions on pork and pork products	Malaysia	European Union	NR
324	China's requirement for registration and supervision of foreign enterprises	China	India	NR
325	EU regulations on cadmium in cocoa	European Union	Colombia, Ecuador	NR
326	Restrictions on table grapes, apples and pears	Thailand	South Africa	NR
327	EU Court of Justice ruling regarding pollen derived from GMOs	European Union	Argentina	NR

Specific Trade Concern Number	Description of Measure	Member(s) Maintaining the Measure	Member(s) Raising the Issue	Status[4]
328	Default MRLs, limits of determination or limits of quantification on basmati rice	United States of America	India	NR
		2012		
329	Testing methods for food additives	China	India	NR
330	Indonesia's port closures	Indonesia	China, European Union, New Zealand, United States of America	NR
331	EU limits of aluminum in flour products	European Union	China	NR
332	Restrictions related to FMD	Japan	Argentina	NR
333	Trade restrictive measures due to the Schmallenberg Virus	Certain Members	European Union	NR
334	MRLs for roasted and powdered coffee	Chinese Taipei	India	R
335	EU testing of pesticide residues	European Union	India	NR
336	US measures on fresh lemons from the north west region of Argentina	United States of America	Argentina	NR
337	Delay in finalizing inspection procedures on bovine and poultry meat from Argentina	Canada	Argentina	NR
338	Import ban on live animals from the EU	Russian Federation	European Union	NR
339	Restrictions on tomatoes	United States of America	Senegal	NR
340	Requirements for importation of sheep meat	Turkey	Australia	NR
341	Russia's listing of export establishments	Russian Federation	European Union	NR
342	Restrictions on shrimp due to anti-oxidant residues	Japan	India	NR
343	Permits on horticultural products	Indonesia	United States of America	NR
344	Measures on shrimp	Brazil	Ecuador	NR

2 STCS CONSIDERED IN 2012

2.1. A total of 35 specific trade concerns were brought to the attention of the Committee during 2012, of which 16 were new issues. Chart 2.1 shows all trade concerns raised or for which a resolution was reported in 2012 in the Committee, by subject. Overall, 17 issues (49%) relate to food safety, five issues (14%) relate to plant health and two issues (6%) relate to other concerns. The remaining 11 issues (3%) relate to animal health and zoonoses; this category includes issues such as transmissible spongiform encephalopathy (TSEs) that are also relevant for food safety. TSEs account for 9% of animal health concerns raised in 2012, while issues related to foot and mouth disease account for 36%, and the remaining 55% concern other animal health issues. No issues related to avian influenza were raised in 2012.

Chart 2.1 - Trade Concerns by Subject – 2012



	Animal Health	Food Safety	Plant Health	Other
Total	11	17	5	2
New	7	6	3	0

Chart 2.2 - Trade Concerns Related to Animal Health & Zoonoses – 2012

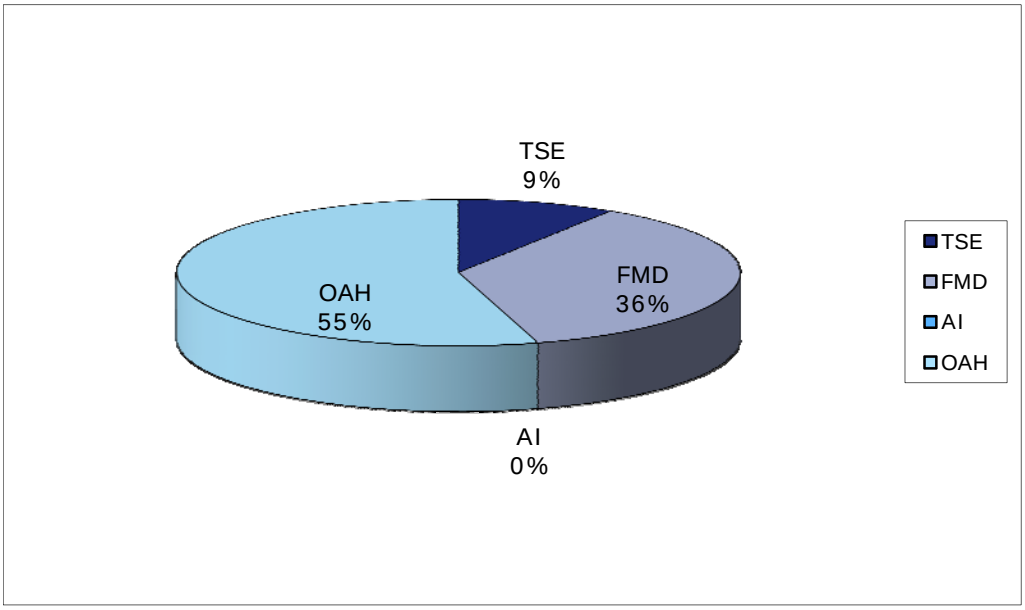
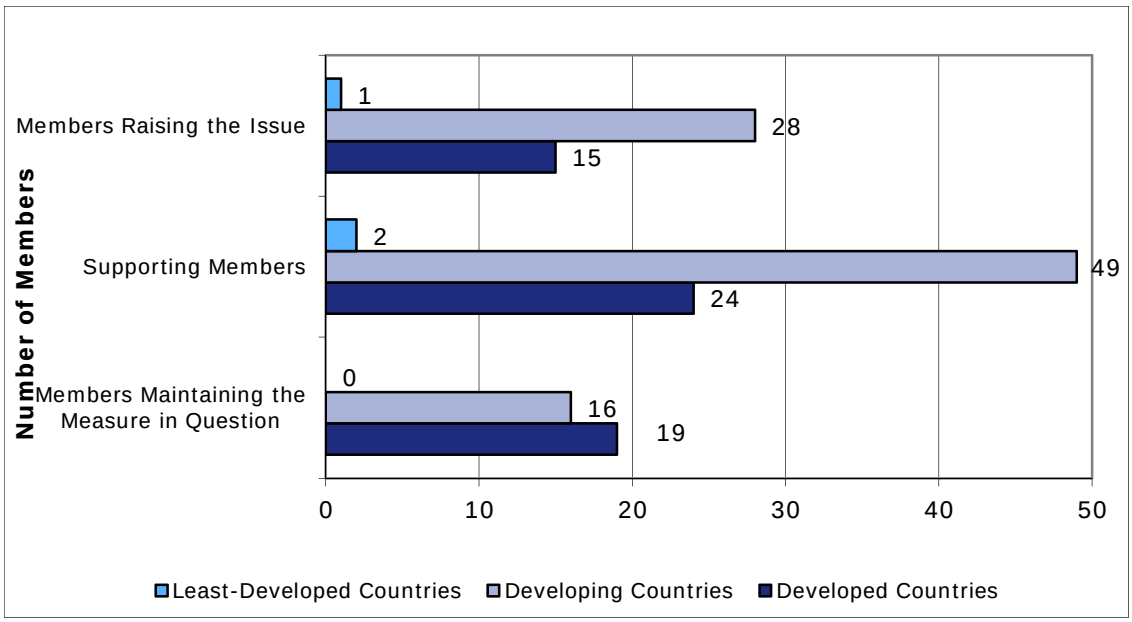


Chart 2.3 - Participation of Members – 2012



2.2. Of the 35 trade concerns discussed in 2012, in 15 cases a developed country Member has raised the issue, compared to 28 cases for developing country Members. On some occasions, developing and developed country Members have raised or supported the same issue. One case was raised by a least-developed country Member in 2012. Developed country Members have supported another Member raising the issue in 24 cases and developing country Members have supported another Member in 49 cases. Two cases were supported by a least-developed country Member in 2012.

2.3. In 16 cases, the measure at issue was maintained by a developing country Member, and in 19 cases it was maintained by a developed country Member. Some specific trade concerns are with regard to measures maintained by more than one Member, including combinations of developed and developing countries. No trade concerns regarding measures maintained by a least-developed country Member were raised.

2.4. In addition, further actions occurred in the context of the WTO dispute settlement resolution procedures with respect to two previously raised STCs.

2.5. The information that follows is presented according to the Member(s) maintaining the measure. It provides a summary of the discussions in the SPS Committee on the trade concern, and subsequent factual information regarding STCs that have become the subject of formal dispute settlement resolution procedures.

2.1 Brazil

2.1.1 Animal Health

Measures on shrimp (STC 344)

Raised by:	Ecuador
Supported by:	
Dates raised:	October 2012 (G/SPS/R/69, paras. 180-181)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.6. In October 2012, Ecuador flagged the drastic decrease in its shrimp exports due to Brazil's Standard 99, that placed conditions on the authorization for shrimp imports so as to prevent the introduction of white spot and yellow head virus. Ecuador had spent considerable resources in protecting and preserving its shrimp production from these two diseases through the residue and contaminant monitoring plans, which had been provided to Brazil. The Brazilian authorities had indicated that the measures adopted in Standard 99 had been lifted; however the Brazilian Ministry of Agriculture published another Standard 12 establishing procedures for import risk analysis that was yet to be implemented. Bilateral discussions had resulted in information exchange and Ecuador hoped for a rapid mutual solution to the issue.

2.7. Brazil noted that it had been informed of this trade concern at short notice and did not have sufficient time to prepare a substantive response. The concerns would be conveyed to the relevant authorities in the hope that a solution could soon be found.

2.2 Canada

2.2.1 Animal Health

Delay in finalizing inspection procedures on bovine and poultry meat from Argentina (STC 337)

Raised by:	Argentina
Supported by:	
Dates raised:	October 2012 (G/SPS/R/69, para. 14)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.8. In October 2012, Argentina expressed concerns at the delays in Canada opening its market for poultry and bovine meat despite favourable risk assessments. Argentina noted that the Canadian Food Inspection Agency (CFIA) had recognized the Argentine FMD-free area without vaccination. In September 2009, the CFIA indicated that the risk assessment results regarding the FMD-free area with vaccination were favourable to Argentina's exports of deboned, matured, fresh, chilled and frozen meat. Argentina's poultry was recognised as being free from Newcastle disease in 2004. Despite all required conditions having been satisfactorily met by 2011 (with the replies to questionnaires and audit of residues control by visiting bovine and poultry establishments in November 2010, among others), Canada continued to delay an audit visit to the inspection system of bovine and poultry meat which Canada itself required. Argentina maintained that this delay was inconsistent with Article 8 and Annex C of the SPS Agreement, and requested effective access to the Canadian market for bovine and poultry products from Argentina.

2.9. Canada responded that it fully intended to audit Argentina's beef and poultry meat inspection systems, but that recent budgetary and staffing restrictions forced the CFIA to postpone the visit until April 2013.

2.3 China

2.3.1 Food safety

Hygiene standard for distilled spirits and integrated alcoholic beverages (STC 278)

Raised by:	Mexico
Supported by:	United States of America, European Union
Dates raised:	February 2009 (G/SPS/R/54, paras. 8-9), June 2009 (G/SPS/R/55, paras. 41-42), October 2009 (G/SPS/R/56, paras. 33-34), October 2011 (G/SPS/R/64, para. 195), March 2012 (G/SPS/R/66, paras. 53-55)
Relevant document(s):	G/SPS/N/CHN/111, G/SPS/N/CHN/111/Suppl.1, G/SPS/N/CHN/377
Solution:	
Status:	Not reported
Date reported as resolved:	

2.10. In February 2009, Mexico indicated that China's notified regulation (G/SPS/N/CHN/111) classified alcoholic beverages in three categories: distilled cereal spirits, distilled fruit spirits and other distilled spirits, establishing maximum levels of methanol of 0.6, 8.0 and 0.6 grams per litre, respectively. Since tequila was made from agave, it was to be classified in the "other distilled spirits" category. As such it would not have access to the Chinese market, since according to the relevant Mexican standard, tequila contained up to 3 grams of alcohol per litre. In 2001, in the context of China's WTO accession, Mexico and China had signed a Memorandum of Understanding through which China had recognized that tequila was a product originating in Mexico, produced according to Mexican standards and regulations. Mexico requested that China modify its draft measure, taking into account the special raw material from which tequila was made, and giving tequila the same treatment as distilled fruit spirits. Mexico's tequila producers had sent comments to this effect to China's Enquiry Point, and the Mexican Government would shortly be submitting comments as well. Mexico thanked China for a bilateral meeting on this subject and looked forward to finding a mutually acceptable solution.

2.11. China encouraged Mexico to submit comments to China's Enquiry Point. Comments received during the comment period would be taken into account. China, of course, was allowed to take measures necessary to protect health.

2.12. In June 2009, Mexico recalled its concern with China's regulation for alcoholic beverages regarding maximum quantities of ethanol. Mexico had provided its comments during the specified period, and hoped that these would be taken into account.

2.13. China clarified that the national standards were applied to all distilled and alcoholic beverages equally and were not aimed specifically at tequila. A written reply to Mexico's comments had been provided, and China hoped a mutually satisfactory solution would be found through the on-going technical discussions.

2.14. In October 2009, Mexico stated that the Federal Commission for Prevention of Sanitary Risks of the Ministry of Health, as well as the national tequila industry, had submitted comments on China's standard in September 2009. In addition, a risk analysis had been submitted on the content of ethanol in tequila. Bilateral meetings had taken place on the margins of the SPS Committee meeting and useful information had been obtained for the review of the standard. Mexico reiterated its commitment to work jointly with China on the issue.

2.15. China confirmed the reception of comments and supporting materials from Mexico. China was aware of the particularity of the processing techniques of tequila. Chinese experts were currently reviewing comments from different stakeholders, and the comments and suggestions from Mexico would be taken into consideration in the review of the standard.

2.16. In October 2011, Mexico again expressed concerns on China's hygienic standard for distilled spirits and integrated alcoholic beverages, in particular the maximum established level for methanol in distilled beverages and the classification of tequila. Mexico had raised this issue in several bilateral meetings, submitted relevant scientific information to assist Chinese officials understand the unique features of tequila, and had also submitted a bibliographic analysis on the presence of methanol in distilled alcoholic beverages and its relation to consumer health. The private sector had also sent comments to the Chinese authorities. Mexico pointed out that certain alcoholic beverages with methanol levels higher than tequila, such as fruit marc spirits, were produced and sold internationally without any reported negative health effects, and that tequila's maximum methanol content of three grams per litre was inherent to the product, not related to poor quality or processing. Mexico concluded that China's proposed maximum limit on methanol could be at odds with existing scientific evidence and, as such, unjustified. China indicated that it would carefully review the information from Mexico.

2.17. In March 2012, Mexico recalled that it had first raised its concerns regarding the maximum level established for methanol on alcoholic beverages and the lack of nomenclature classification that could cover tequila in China's hygiene standard for distilled spirits and integrated alcoholic beverages in February 2009. Mexico had held various bilateral meetings to discuss this issue, and in September 2011 had submitted comments on China's notification G/SPS/N/CHN/377. Mexico requested that the Chinese requirement be modified to reflect the maximum level of methanol permitted under the Mexican Standard for Tequila, 3.0 g/l ethanol 100 AA. This would allow tequila and other beverages produced from agave to access the Chinese market. Studies confirmed that the methanol limits proposed by Mexico did not pose a health risk.

2.18. The United States supported the concerns raised by Mexico, and requested China to provide a risk assessment to justify the measure, as well as an explanation of the regulation and the expected date of entry into force. The United States also asked China to provide a one year transition period for companies to comply with the regulation once China had provided its risk assessment and had notified the final measure to the WTO. The European Union echoed these concerns, and noted that the measure created unnecessary barriers to trade, and was not based on science.

2.19. China observed that bilateral meetings had taken place with Mexico and noted that the standard was based on Chinese consumption habits. China would take Members' comments into consideration and keep them informed.

Chinese quarantine and testing procedures for salmon (STC 319)

Raised by:	Norway
Supported by:	Switzerland, United States of America, European Union
Dates raised:	June 2011 (G/SPS/R/63, paras. 19-24), October 2011 (G/SPS/R/64, para. 196), March 2012 (G/SPS/R/66, paras. 44-46), July 2012 (G/SPS/R/67, paras. 40-42), October 2012 (G/SPS/R/69, paras. 40-41)
Relevant document(s):	G/SPS/GEN/1090
Solution:	
Status:	Not reported
Date reported as resolved:	

2.20. In June 2011, Norway stated that after years of steady increase in its exports of fresh salmon to China, exports had dropped significantly due to testing and quarantine procedures implemented by China on 13 December 2010. These were followed by strengthened inspection and quarantine procedures as stated in Notice No. 9 2011, which had not been notified to the WTO. The Norwegian monitoring programmes, in operation since 1998, showed no presence of illegal substances in the fish products and had consistently documented low levels of contaminants. China's measures did not seem to be based on scientific principles or a risk assessment, and Norway requested an explanation for these measures and how they complied with the SPS Agreement.

2.21. The United States supported Norway and expressed their concern that China had implemented AQS1Q Order No. 9, Notice on Strengthening Inspection and Quarantine on Imported

Salmon, in February 2011, without having notified the measure. The stated objective of this notice was to safeguard consumer health, however no risk assessment had been provided. The United States requested a copy of China's risk assessment, and requested that China rescind AQS1Q Order No. 9's documentation requirements until the measure had been notified. China was also asked to explain how the requirement for the exporter's vessel name and number related to ensuring that wild salmon was safe for human consumption.

2.22. The European Union also called for transparency in all SPS matters.

2.23. China clarified that since 2010, the entry and exit inspection and quarantine bureaus in China had detected fish lice, pathogenic micro-organisms and excess veterinary drug residues in imported chilled salmon. In an attempt to protect their consumers, China had published a notice to strengthen the inspection and quarantine of imported salmon, based on the Administrative Measure for Inspection, Quarantine and Supervision on Import and Export of Feed and Feed Additives and its revision and amendment measures of imports and exports of aquatic products, which were notified to the WTO. The measures taken were covered by these laws and regulations without any new element and therefore it was unnecessary to make another notification. China had already responded to Norway's concerns when it raised them in March 2011, during Norway's visit to China's AQSIQ and hoped that those replies addressed its concerns. China was open to further bilateral discussions with the European Union and the United States on this topic.

2.24. Norway stressed that ensuring seafood safety is a major objective of Norwegian authorities, who monitor the presence of undesirable substances, microorganisms and parasites in wild-caught and farmed seafood, as well as fish feed. Norway had been performing a risk assessment on seafood, based on studies of the most commercially important fish species in Norway. Stakeholders often held conflicting views on food safety and on the benefits of seafood and it was important to distinguish between fact and fiction. Norway was keen to further collaborate in this area with China.

2.25. China observed that Norway's concerns focussed on the detailed testing methods, however these purely technical matters had to be discussed among scientists. In March, scientists from both countries had held detailed discussions on this issue, and almost all of Norway's concerns had been clarified. China was disappointed with the lack of Norwegian efforts to resolve this issue, as when any cargo was identified to be carrying disease the problem was supposed to be rectified by the exporter. China welcomed Norway's and other interested parties participation in bilateral discussions as this issue had been on-going for two years.

2.26. In October 2011, Norway provided an update on recent developments in China's measures on salmon, in particular the new testing and quarantine measures on fresh salmon. The measures introduced in December 2010 by the implementation of AQSIQ Order Number 9 had led to a 70% reduction in the volume of Norway's exports of fresh salmon to China. Norway had requested bilateral consultations between the relevant technical experts, and urged China to agree to hold this meeting before the end of 2011. China indicated that the sharing of written documents and data was as important as physical talks, but Norway had not yet provided the necessary information. However, there had been smooth discussions on this issue in AQSIQ in Beijing.

2.27. In March 2012, Norway reiterated concerns about the new testing and quarantine measures introduced by China in December 2010, directed specifically at fresh, chilled salmon from Norway. These measures were further strengthened in February 2011 by the implementation of AQSIQ Order No. 9 and had led to a dramatic reduction in the volume of Norway's exports of fresh salmon to China. SPS measures should be supported by a scientifically based risk analysis, but to date, Norway had not received a copy of China's risk assessment on salmon. Norway urged China to agree on a date for bilateral consultations at an expert level as soon as possible.

2.28. The European Union supported the need for transparency and good communication in this matter, and underscored the importance of open and direct contact with trading partners on measures of concern.

2.29. China repeated the explanation provided in June 2011 regarding the detection of fish lice, pathogenic micro-organisms and excess chemical residues, among other issues, in imported salmon, and the measures it had taken to strengthen the inspection and quarantine of imported

salmon. These import inspection and quarantine procedures were not aimed at any particular Member, but quarantine issues were detected in numerous shipments of salmon from Norway. China was willing to adjust the relevant measures once Norway had addressed the quality issues.

2.30. In July 2012, Norway noted that after December 2010, China had begun to report a tenfold increase in the number of notifications of "contaminants" in Norwegian salmon, amounting to a total of 24 in 2011. A large number of these notifications identified a microorganism that was not an issue in Norwegian aquaculture due to the prevailing low water temperatures. Active co-operation between technical experts from both parties was necessary to discuss and clarify the issue and ultimately normalize trade, but it had not been possible to hold such technical bilateral meetings despite Norway's numerous requests. However, Norway was encouraged that during the recent Trade Policy Review, China agreed to address the issue in a meeting between relevant technical experts.

2.31. Switzerland shared the concerns raised by Norway and requested China and Norway to meet in order to resolve the issue.

2.32. China observed that Norway was one of the main suppliers of salmon to China; however, in recent years more and more shipments of unqualified salmon were being detected. In 2011, 19 shipments of salmon were deemed as unqualified for the Chinese market. The diseases found in shipments of salmon from Norway were considered to pose food safety risks by the Chinese National Food Safety authorities and their presence was prohibited in food products. China was in the process of revising the limits on pathogens in food products and would set new food safety standards. The new draft standard had been notified to the WTO for comments. China remained committed to continue bilateral discussions with Norway.

2.33. In October 2012, Norway reiterated that these measures posed serious challenges to Norway's trade of fresh salmon to China, as the quarantine measures implied that all consignments of fresh salmon would be tested and retained in custody awaiting the test results. The obligations under the SPS Agreement required that SPS measures be supported by a science-based risk analysis, not more trade restrictive than necessary and applied in a transparent manner. The measures applied to salmon from Norway appeared not to be proportional to the situation and Norway requested China to provide the risk analysis that supported the testing and quarantine measures. Norway recognized the communication between AQSIQ and the Norwegian Embassy in Beijing, but requested AQSIQ to agree to the request for technical consultations on this issue, in line with Article 5 of the SPS Agreement.

2.34. China reiterated that in recent years its inspection authorities had detected pathogenic germs and excessive veterinary drug residues in imported salmon. Based on the results of a risk assessment, Chinese experts were of the opinion that the importation of salmon, especially chilled, fresh and farm-raised salmon, posed a high food safety risk. In order to protect the health of Chinese consumers, AQSIQ decided in early 2011 to further strengthen the inspection and quarantine of salmon imported into China from all countries. The relevant measures were based on existing laws and regulations and were not new measures which needed to be notified to the WTO. Norway was one of the main suppliers of salmon to China, however, Norway had failed to meet China's inspection requirements in recent years. In 2011, 24 cases of unqualified aquatic products from Norway were reported, of which 19 cases involved salmon. China remained committed to continue bilateral discussions with Norway and looked forward to further communication in relation to the Sino-Norway Memorandum of Understanding on SPS.

China's requirement for registration and supervision of foreign enterprises (STC 324)

Raised by:	India
Supported by:	European Union
Dates raised:	October 2011 (G/SPS/R/64, paras. 36-38), March 2012 (G/SPS/R/66, paras. 36-38)
Relevant document(s):	G/SPS/N/CHN/472
Solution:	
Status:	Not reported
Date reported as resolved:	

2.35. In October 2011, India raised concerns over China's notification on "Provisions on the Administration of the Registration of Foreign Manufacturers of Imported Foods" (G/SPS/N/CHN/472) of 19 August 2011. Foreign manufacturers of foods listed in a "Catalogue of Registration of Foreign Manufacturers of Imported Foods" would not be able to export their products to China without registration. India enquired when this catalogue would be issued and requested further information on possible registration fees and processing times.

2.36. The European Union echoed these concerns, and indicated that it had provided written comments on the notified measure, and hoped that China would take them into account. The requirements in the notified measure seemed burdensome and costly, and not necessarily in line with the requirements of the SPS Agreement.

2.37. China explained that the notified measure was not new, but would repeal the original registration requirement, established in March 2002. The registration procedures would not include fees, only guidance on how to register. The question whether there would be any other charges was still under discussion, and would be announced separately after approval. Registration renewal should be requested before expiration, and as food enterprises were categorized according to different risk levels, the application process and specific verification requirements would differ accordingly.

2.38. In March 2012, India recalled that it had submitted comments on China's notification, requesting information on the issue date of this catalogue, registration fees and processing times. Although China had indicated that the notified measure was not new, the current process was more stringent than the 2002 regulation.

2.39. While appreciating China's clarifications, the European Union supported India's call for greater clarity and additional information on the process. In particular, certain aspects of the registration process had not yet been outlined nor guidelines provided on the detailed process to be undertaken by exporters of products, with indicative timelines. The European Union urged China to provide an appropriate transitional time period for trading partners to follow this new requirement.

2.40. China explained that the notified measure was an amendment of the General Order No. 16, which was issued and implemented in 2002. The measure was notified to the WTO and comments were received and reviewed by China. The measure provided a regulatory framework similar to the original regulation and only overseas production enterprises listed in this catalogue needed to register in accordance with the requirements. The date of entry into force of the regulation was March 2012 and the official implementation would provide a sufficient transitional period. China would take into account India's comments and urged other concerned parties to raise their issues with the designated Chinese department as early as possible in order to facilitate the preparation of a detailed response.

Testing methods for food additives (STC 329)

Raised by:	India
Supported by:	
Dates raised:	March 2012 (G/SPS/R/66, paras. 17-18)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.41. In March 2012, India indicated that it had concerns with the 133 notifications issued by China in July, November and December 2011, proposing testing methods for identifying the physical and chemical index of substances in food products. India had responded to the notifications seeking additional information, including clarification on the purpose of the testing methods, and requested China to provide the scientific methodology used for setting these regulations.

2.42. China explained that it had not received India's questions in advance but would convey these to the relevant authorities, and proposed bilateral technical communications.

2.3.2 Animal Health

General import restrictions due to BSE (STC 193)

2.43. See paragraphs 2.357. 2.390.

2.4 European Union

2.4.1 Food safety

Application and modification of the EU Regulation on Novel Foods (STC 238)

Raised by:	Colombia, Ecuador, Peru
Supported by:	Argentina; Benin; Bolivia, Plurinational State of; Brazil; Chile; China; Costa Rica; Cuba; El Salvador; Honduras; India; Indonesia; Mexico; Paraguay; Philippines; Uruguay; Venezuela, Bolivarian Republic of
Dates raised:	March 2006 (G/SPS/R/40, paras. 21-29), June 2006 (G/SPS/R/42, paras. 35-37), October 2006 (G/SPS/R/43, paras. 140-143), February 2007 (G/SPS/R/44, para. 64), April 2008 (G/SPS/R/49, paras. 48-52), October 2008 (G/SPS/R/53, paras. 19-23), October 2009 (G/SPS/R/56, paras. 53-55), June 2011 (G/SPS/R/63, paras. 32-35), October 2011 (G/SPS/R/64, paras. 72-73), March 2012 (G/SPS/R/66, paras. 50-52), July 2012 (G/SPS/R/67, paras. 56-58), October 2012 (G/SPS/R/69, paras. 26-28)
Relevant document(s):	G/SPS/GEN/681, G/SPS/GEN/699, G/SPS/GEN/700, G/SPS/GEN/713, G/SPS/GEN/714, G/SPS/GEN/733, G/SPS/GEN/735, G/SPS/GEN/1087, G/SPS/GEN/1117, G/SPS/GEN/1137
Solution:	
Status:	Not reported
Date reported as resolved:	

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

2.45. Colombia was aware of the importance of protecting consumer health. However, the amount of information on the safety of these traditional food products required by the EC regulation and the costs to undertake scientific studies were not proportional to health risks and were excessive especially for small scale farmers and exporters. The proposed amendment of Regulation 258 would result in a non-tariff barrier to trade with negative effects on the introduction of traditional foods into European markets, contrary to Articles 2.2 and 5.6 of the SPS Agreement. Colombia requested the European Communities to consider the following points regarding the amendment of the Regulation 258/97: (i) the non-application of Regulation 258 to exotic, traditional products with a history of safe consumption in their region of origin; (ii) greater transparency and clarity in the procedures and definition, giving credit to a safe consumption history of food in the country of origin; requirements, tests, and procedures in proportion with the nature of the foods concerned and the risks they could imply for consumers; and (iii) all exotic traditional products to remain in the public domain and no private entity to be granted privileged access to the European market.

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

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

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

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

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

2.51. Bolivia, Brazil, Colombia, Ecuador, India, Paraguay and the Philippines shared the concerns raised by Peru. Ecuador indicated that a study on the impact of the novel food regulation was about to be finalized. Preliminary results of this study showed that this regulation could have negative economic and social consequences for Ecuador's production system by having an effect both on current exports and on products with export potential in the European Communities that were currently marketed in other countries (G/SPS/GEN/714). Bolivia and Colombia highlighted that some of the products were currently being promoted *inter alia* by policies supporting alternatives to narcotic crops, some of which were funded by the European Communities or its member States. The Philippines indicated that the effects of the novel food regulation and of EC regulations on genetically modified food were still being evaluated.

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

2.53. In October 2006, Colombia, Ecuador and Peru reiterated concerns relating to EC Regulation 258/97 on Novel Foods (G/SPS/GEN/733 and G/SPS/GEN/735). They considered that the regulation constituted a non-justified barrier to trade in these products as it was not flexible and made no distinction between novel (GMO) foods and traditional foods with no known risks. They noted that exotic products originating from Latin America were not the result of any type of genetic modification but rather formed part of the biodiversity of the region and were consumed traditionally. Also there were inconsistencies in the way this regulation was applied throughout the European Communities. The European Communities had not considered the fact that many of the traditional products had been marketed in a number of countries with very strict sanitary standards as they posed no health risks to consumers.

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

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

2.56. The European Communities reminded the Committee that the issue had been discussed in the SPS Committee on previous occasions and there had been various exchanges of communications between the Members concerned. The European Communities acknowledged the problem with traditional products, which were not in the EC market prior to 1997 and noted that the regulation was not discriminatory as EC producers had to undergo similar risk evaluations. Nonetheless, the European Communities imported an enormous volume of foods and vegetables. They reiterated the request that the Members concerned submit data on the volume of trade and risk assessments carried out in other developed countries. The European Communities indicated that the EC Commission was putting forward a new proposal that addressed the genuine concerns of Members. A public consultation had been held on the matter and the European Communities appreciated the contributions from the concerned Members.

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

was looking to address the concerns identified by trading partners, while ensuring consumer safety.

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

2.59. Colombia noted that a number of concerns remained. The proposed definition of a traditional foodstuff was that it had been part of the diet of a large part of the population for at least one generation. This definition could restrict those products that were part of the dietary traditions of certain subpopulations or regions of the country. It would also be useful to clarify how a "generation" was to be defined. Another concern was that requests for authorization would have to come from commercial operators, hence excluding such requests from the competent governmental authorities or producer associations. These Members suggested that information regarding safe use of the traditional food in other countries should also be considered. The concerned Members recognized that although the proposed process had been considerably simplified, a period of five months was still foreseen for consideration of a request, and they suggested that three months should be sufficient. These Members remained concerned that the definition of a novel food remained a product that had not been consumed in the EC market prior to 1997, which seemed to bear no relation to the scientific evidence regarding the safety of a product.

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

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

2.62. In October 2008, Peru requested that there should be a notification to the SPS Committee regarding the modification of the EC Novel Foods Regulation. Many exporting Members failed to understand the content of the regulation, why some products were banned while others were not. Also, the regulation gave exporting countries, many of which were developing countries, the burden of proof that their products were safe and complied with the EC Regulation. Brazil, Colombia, Costa Rica, Cuba, Ecuador, Mexico, Paraguay and the Philippines shared Peru's concerns regarding the EC Regulation on Novel Foods.

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

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

procedure was expected to be more flexible, and some Novel Foods had already been approved for entry into the EC market.

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

2.66. In October 2009, Peru recalled that the entry of traditional exotic products to the EC market had been seriously affected by the EC regulation on novel foods. The measure contravened the activities that the European Communities themselves had been undertaking to support small producers and to open the EC market to new and exotic products. Various exotic products had been certified by the Health and Environment Authority of Peru, which certified the safety and compliance with a HACCP system, and these products were fit for human consumption and could be marketed internationally. Peru expressed concern about the continuous loss of business opportunities due to this measure and asked for an update on the modification progress. Brazil, Colombia, Ecuador, and Mexico supported Peru's concerns regarding the EC regulation on Novel Foods.

2.67. The European Communities stated that on 15 January 2008, the EC Commission had submitted to the Council and the European Parliament a proposal for the revision of the Novel Food Regulation. The proposal was notified to WTO Members in March 2008 under the TBT Agreement. The revised procedure was expected to be more flexible and some novel foods had already been approved for entry into the EC market. The reference period for establishing a history of safe food use had been changed to a period of 25 years, and consumption data could originate from any third country and not necessarily from the country that submitted the application. The possibility to apply for a novel food authorization had also been opened to any interested party. The proposal kept the main rules currently applicable to novel goods, but simplified EC market access for traditional foodstuffs from third countries which had a history of safe use and put in place proportionate regulatory measures. The proposal was still under negotiation and its adoption was foreseen for July 2010.

2.68. In June 2011, Peru again raised concerns about Regulation 258/97, that particularly affected trade in Peruvian traditional foods that were safely sold in the United States and Japan (G/SPS/GEN/1087). Colombia shared the concern of Peru, as this regulation was an unjustified barrier to trade of traditional foods and consequently impeded economic activities. In 2009, the European Union had agreed to change this regulation in a way that would take into account traditional foods. This modification had not been implemented, however, because of disagreements that the European Council and the European Parliament had regarding products of cloned animals, although there was general agreement on traditional foods. Colombia encouraged the European Union to separate these issues and resolve the matter of traditional foods by the end of 2011. Brazil, Chile, China, Costa Rica, Indonesia, Mexico and Paraguay supported the concerns raised by Peru and Colombia.

2.69. The European Union stated that foods were considered novel under the present Regulation 258/97 if they were derived from new technological processes or if they had no significant history of consumption in Europe. On 15 January 2008, steps were taken to update the existing novel food rules in an effort to facilitate applications for novel food authorizations and to simplify market access to the European Union for traditional foodstuffs from third countries which had a history of safe food use. However, the initial proposal submitted to the co-legislators was not adopted. The main stumbling blocks related to provisions regarding food from cloned animals and nanotechnology. Any new regulation would contain a centralized and quicker authorization procedure for novel foods and specific measures for traditional foods, as agreement had indeed already been reached on this issue between the European co-legislators.

2.70. In October 2011, Peru recalled its concerns about Regulation 258/97 (G/SPS/GEN/1117). Brazil, Chile, Columbia, Costa Rica, Ecuador, Mexico and Paraguay shared the concerns raised by Peru.

2.71. The European Union reiterated the explanation that it had provided in June 2011 regarding the definition of novel foods and the current process of revision of the regulation.

2.72. In March 2012, Peru recalled its previously raised concerns about the EU Novel Foods regulation (258/97) that restricted foods which were not marketed in the European Union before May 1997 (G/SPS/GEN/1137). The Regulation did not distinguish between foods and ingredients that were new in the strict sense and traditional products derived from the biodiversity of developing countries. The EU measures were unnecessary and excessive as they applied to products that had a history of safe consumption in other markets and presented no risk for consumer health. Recalling the provisions of the SPS Agreement, Peru urged the European Union to refrain from applying Regulation No. 258/97 to traditional products with a history of safe consumption outside the EU market.

2.73. Cuba supported the concerns of Peru and indicated that the measure was discriminatory. Colombia also supported Peru's concerns and urged the European Union to accelerate the modification of the regulation on novel foods, highlighting the unnecessary and unjustified effect that the delay was having on the access of traditional products to the EU market. Argentina, Brazil, Chile and Paraguay indicated that they shared the concerns and were closely following the issue.

2.74. The European Union restated the observations presented during the 2011 June and October meetings.

2.75. In July 2012, Peru once again recalled its concerns about the EU novel foods regulation. Peru considered that its traditional products were a sign of the sustainable use of its biodiversity and argued that this regulation particularly affected trade in traditional foods. This regulation had negative economic and social impacts, including the loss of trade revenue, the administrative costs faced by importers and the potential effect on the general health of consumers worldwide as a result of the decrease in consumption of traditional products with high nutritional value. Peru urged the European Union to refrain from applying Regulation No. 258/97 to traditional products or to facilitate the entry of products with a history of safe consumption outside the EU market.

2.76. Cuba supported the concerns of Peru and indicated that the measure was discriminatory, highlighting the unjustified effect that the measure was having on the access of traditional products to the EU market. Colombia and Ecuador also supported Peru's concerns and urged the European Union to implement the reforms to the regulation on novel foods.

2.77. The European Union explained that revision of the novel foods rules had started in January 2008 in an effort to facilitate applications for novel foods authorizations and to simplify EU market access for traditional foodstuffs from third countries with a history of safe use. However, the co-legislators had not agreed to the proposed revision and the European Union was now engaged in preparing the next steps in the hope of facilitating the consensus necessary to allow a revised novel food regulation to be adopted into law. The European Union would make public the next steps it was taking once these were agreed. The Commission was currently preparing a legislative proposal based on the overall agreement reached with EU co-legislators, with adoption expected in 2013. Any new regulation on novel foods would contain a centralized and quicker authorization procedure for novel foods and specific measures would be put in place for traditional foods from third countries to access EU markets. A related legislative proposal on animal cloning was planned to be adopted by the Commission in 2013, based on the results of an impact assessment which was currently underway.

2.78. In October 2012, Peru reiterated its concern that the application of Regulation 238/97 continued to restrict access of traditional products into the European Union. Regulation 238/97 was in practice an unnecessary and unjustified barrier to trade, not adopted on the basis of an appropriate risk assessment taking into account scientific evidence, thus contrary to Article 5 of the SPS Agreement. Peru reiterated its request that the European Union exclude from the regulation traditional products arising from biodiversity and remove the unjustified hindrances to trade.

2.79. Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador and Venezuela supported Peru's concern and asserted that Regulation 238/97 constituted an unnecessary barrier to trade because it targeted products that were not widely traded in the EU market before 1997 without considering

the history of safe consumption in other countries. Colombia regretted the EU delay in reforming this Regulation to bring it into compliance with WTO obligations. Brazil, Chile and Costa Rica reiterated their interests in developments regarding the reform of this Regulation.

2.80. The European Union recalled that at the last meeting it had provided a detailed explanation on the state of play of the Novel Foods dossier; it was now engaged in preparing a new legislative proposal on Novel Foods, expected to be adopted in 2013. The European Union would keep Members informed on the progress of the novel food negotiations, on future measures applicable to traditional foods from third countries, and would notify the new draft legislation to the WTO for comments. In order to help producers, importers and those responsible for placing products on the EU market a Novel Food Catalogue had been created, and a document indicating how interested operators may establish whether a food or food ingredient had a history of consumption in the European Union. The European Union remained committed to work with concerned partners towards an amicable solution of this matter.

Maximum residue levels of pesticides (STC 306)

Raised by:	India
Supported by:	Brazil, Pakistan, Thailand
Dates raised:	October 2010 (G/SPS/R/61, paras. 17-19), March 2011 (G/SPS/R/62, paras. 56-58), June 2011 (G/SPS/R/63, paras. 36-37), October 2011 (G/SPS/R/64, paras. 67-68), March 2012 (G/SPS/R/66, paras. 56-58), July 2012 (G/SPS/R/67, paras. 38-39), October 2012 (G/SPS/R/69, paras. 31-32)
Relevant document(s):	G/SPS/N/EEC/196/Add.2, G/SPS/N/EEC/196/Add.10, G/SPS/N/EEC/382, EU Revised Plant Protection Regulation 1107/2009, EC Regulation 396/2005.
Solution:	
Status:	Not reported
Date reported as resolved:	

2.81. In October 2010, India referred to three EU notifications on the adoption of Maximum Residue Limits (MRLs) for certain pesticides (G/SPS/N/EEC/196/Add.2, G/SPS/N/EEC/196/Add.10 and G/SPS/N/EEC/382) within the framework of the EU Revised Plant Protection Regulation 1107/2009. EC Regulation 396/2005 established the legislative framework for MRLs of pesticides in or on food and feed of plant and animal origin, which was notified by the European Commission in April 2005. India was concerned that the MRLs for a number of chemicals were set at the "limit of detection" (LOD). This was the residue limit which could be detected using analytical methods/testing procedures available in Europe. Different climatic conditions in India required a different use of pesticides in agricultural production. No scientific evidence had been provided to justify the setting of the MRL at the LOD, especially for imported products. For some substances, the MRLs in EU cereals was much higher than the approved level of the same substance in rice. The setting of MRLs at the LOD had impacted India's exports of agricultural products to the European Union, and India requested the European Union to provide the validated testing methods it used to arrive at the LOD as well as the scientific basis and risk assessment for the MRLs. India considered that the EU MRLs resulted in the violation of Articles 2.2, 2.3, 3.1, 5.1 and 5.4 of the SPS Agreement.

2.82. Thailand shared India's concerns, observing that in the recent EU notifications the proposed MRLs for some chemicals were much lower than the levels set by Codex. Brazil and Pakistan also shared India's concerns about the EU procedure for establishing MRLs.

2.83. The European Union explained that the new legislation on pesticide residues was in place since 1 September 2008. MRLs had undergone a common EU consumer intake assessment carried out by the European Food Safety Authority (EFSA) to make sure that all classes of consumers, including vulnerable ones such as babies and children, were sufficiently protected. The validated analytical methods used by the European Union could be found on the website of the EU Reference Laboratories for Residues of Pesticides. The model used for estimating the dietary intake of 27 EU consumer groups was available on the EFSA website. The risk assessment methodology used for setting the MRLs came from the framework established by the Codex Alimentarius, as described by

a 2002 Joint FAO/WHO Meeting on Pesticide Residues' (JMPR) report. An LOD was set when there was a safety concern for consumers from the use of a pesticide at high levels or when there was no authorized use on a specific crop within the European Union or third countries. The proposed revision of the EU MRLs had been notified to the WTO in 2003, 2005 and 2007, and all WTO Members and stakeholders had also been informed about all the individual values that were proposed. The MRLs were fixed and published in the Official Journal if no reaction to the notifications had been received. Nevertheless, applicants in and outside the European Union could apply to have import tolerances set for higher MRLs in specific cases. Although the European Union was aware of the different geo-climatic conditions in India, data on the safety of imported products was still necessary.

2.84. In March 2011, India stated that the European Union had harmonised its pesticide residue levels under Regulation No. 396/2005 on MRLs for pesticides on food and feed of plant and animal origin. A default level of 0.01 mg/kg had been applied on many chemicals, and the European Union had claimed that the MRLs had been set at the Level of Determination (LOD). However, without a validated test, it was not clear how the LOD was set and consequently the scientific evidence for the MRL had not been provided despite substantially higher levels for the same chemicals existing in other countries. India re-stated its concerns relating to: (i) non-harmonization with international standards; (ii) lack of risk assessment; (iii) misuse of Article 5.7 of the SPS Agreement; (iv) lack of attempt to minimize negative trade effects; and (v) European laws and regulations.

2.85. The European Union noted that trading partners could apply for higher MRLs by providing scientific evidence. With respect to the commodities of interest to India, the European Union had indicated that given the economic significance of those commodities, it was prepared to modify the relevant MRLs. India had already submitted an application for a higher MRL which was under evaluation and, pending the outcome of that evaluation, an import tolerance would be set.

2.86. In June 2011, India recalled that the European Union had previously indicated that its trading partners could apply for higher MRLs by providing scientific evidence. However, the application of the precautionary principle in the case of chemicals that had been used for decades without any negative effects resulted in an unjustified trade barrier. The MRLs had been set at the level of detection (LOD) without a risk assessment. The LOD was the limit below which residues could not be detected by using sophisticated analytical methods, virtually a zero tolerance, and imported food items containing small traces of pesticides were being adversely affected. In addition, the European Union had not made, or not shared, any scientific assessments that justified the default MRL for some pesticides. The default MRLs created distrust as private labs were being used to run the assessments and at times they used testing methods which were not in line with the European Commission guidelines on method validation and quality control procedures for pesticide residue analysis in food and feed. Furthermore, the aggressive business behaviour by private labs in approaching exporting countries like India for pre-screening services was a cause for concern. India requested that the European Union provide the scientific justification for the current MRLs for certain pesticides, rather than shifting the burden of proof onto exporters by requiring that they provide justifications when applying for higher MRLs. India urged the European Union to take effective steps to remove these trade restrictive measures.

2.87. The European Union stated that since 2008, a new legislative framework had been in operation which completed the harmonization and simplification of pesticide MRLs and eliminated all technical barriers to trade. The full details of the EU policy on pesticides had been presented at the March SPS Committee meeting. Trading partners could apply for an MRL that was greater than what was foreseen in the EU legislation by providing scientific evidence justifying the higher level. Regarding the commodities of interest to India, the European Union was prepared to modify relevant MRLs assuming that the requisite information was provided. India had in fact already submitted an application for a higher MRL for Isoprothiolane on rice which was being evaluated by the European Food Safety Authority (EFSA), however, further information was required from India. As far as grapes were concerned, data from 2011 indicated that no obstacles had been identified.

2.88. In October 2011, India recalled that the European Union had previously claimed to have a non-discriminatory, open, transparent and predictable procedure for setting MRLs. However, India questioned the scientific basis for using the level of detection (LOD) method and for setting MRLs for certain pesticides at default levels of 0.01 mg/kg, as well as the validation testing methods used by the European Union to arrive at the level of detection. The EU method of setting MRLs was

discriminatory as it affected the trade of certain products and did not conform to the SPS Agreement. India had been informed that a Member could apply for a higher MRL, however the EU procedure was lengthy, costly and burdensome. India urged the European Union to replace its ad hoc discriminatory, opaque, and unscientific measures with more predictable and science-based ones.

2.89. The European Union recalled its statement at the June 2011 meeting and noted that setting the MRLs at the default level for some pesticides facilitated trade, in contrast to a zero-tolerance approach. Trade had not been interrupted as a result of this legislation, and particularly not in commodities of interest to India. In line with the EU legislation, India had applied for a higher MRL for Isoprothiolane on rice, and submitted complementary information. An opinion from the EFSA was expected in the first quarter of 2012, and on the basis of this evaluation, the European Union would decide whether a higher MRL could be safely set.

2.90. In March 2012, India reiterated that no Member should set MRLs without scientific justification. India welcomed the EU MRL for Isoprothiolane in rice, and sought clarification on the status of an import licence application for Tricyclazole by Dow Agro Sciences. India urged the European Union to replace default MRLs for a variety of pesticides, as the default levels of 0.01 mg/kg, meant that imported foodstuffs containing even the smallest trace of pesticides (e.g., Cerbandazim) were banned in the European Union. India requested the scientific justification for fixing any MRLs at the level of detection, and recalled that under Article 12.6 the Committee could invite a relevant international body, such as Codex, to examine the scientific basis of a standard set by the European Union.

2.91. Pakistan stressed the importance of this issue for developing countries, and expressed hope that it would be soon resolved.

2.92. The European Union recalled that in September 2008 it had introduced a new legislative framework on pesticide residues (Regulation EC 396/2005) under which many pesticides MRLs had been set at the default level in order not to hinder trade. Trading partners that felt that a higher MRL was necessary should submit an application, with the appropriate scientific justification. The European Union would set a higher MRL where this was scientifically justified, as had been done for Isoprothiolane, where the MRL in rice had been raised to 5 mg/kg from its default level. This was done on the basis of a scientific opinion from EFSA, which stated that authorized use at that level would not pose a public health concern. The European Union also noted that EFSA strongly recommended that studies be carried out to investigate the effect of processing on the nature of Isoprothiolane residues. Following a decision by the EU member States, it was agreed that the MRL would therefore be fixed on a temporary basis on the understanding that it may be reviewed in the light of the results of the requested study on processing.

2.93. In July 2012, India reiterated that no Member should set MRLs without scientific justification, as doing so violated the SPS Agreement. India requested the European Union to provide scientific justification for fixing any MRLs at the Level of Determination (LoD) for pesticides such as Carbendazim. The developer of Tricyclazole (Dow Agro Sciences) had filed an application for an import tolerance in accordance with Art. 6 (4) of Regulation (EC) No. 396/2005, however, it was unclear whether the data submitted was acceptable or not. India requested the European Union to clarify the situation and to work constructively on resolving the issue as the uncertainty and unpredictability adversely affected India's exports.

2.94. The European Union recalled that Regulation (EC) No 396/2005, which had entered into force in 2008, essentially stated that before an MRL could be set for a pesticide, its safety must be confirmed on the basis of a scientific assessment. In the spirit of the SPS Agreement, when drawing up this legislation, the European Union had sought to eliminate any inappropriate technical barriers to trade in the setting of MRLs by setting MRLs, for many pesticides - not in use in the European Union - at the default level. By doing this, the European Union, de facto, had also established a 'tolerance' - albeit a very low one - for pesticides that were not in use in the EU territory, and for which it was not in position to verify their safety or otherwise. The modification of such tolerance levels was not possible unless solid scientific data demonstrated the safety of the product. India could apply for an import tolerance in cases where it believed that an MRL higher than the default level was warranted. This procedure had been used successfully by India to apply for a higher import tolerance for Isoprothiolane, a pesticide used by India in the production of rice, a major export crop of interest to India. The case of Isoprothiolane demonstrated that the

procedure in place was non-discriminatory, transparent, delivered results and offered predictability to exporters.

2.95. In October 2012, India noted that no solution had yet been found to this concern. The European Union continued to set MRL levels at the Limit of Detection (LOD) for pesticides such as Carbendazim and Isoprothiolane, without any scientific justification contrary to the provisions of the SPS Agreement. India reiterated its request for the European Union to provide scientific justification for fixing MRLs at the limits of detection without scientific evidence.

2.96. The European Union stated that trading partners must follow the EU procedure for requesting the setting of MRLs based on actual use of a pesticide. Where a pesticide was not used within the European Union or was unknown, the European Union set the MRL at the lowest analytical level rather than apply a zero tolerance approach, to give traders some legal certainty. Before setting an MRL for a pesticide, the scientific opinion of EFSA was sought on each occasion. The European Union reiterated that its legislation was balanced, non-discriminatory, based on sound scientific assessments and predictable. The European Union suggested that India provide a list of the chemical substances used in India that it considered were not harmful to human health, so that the same could be the subject of an EFSA risk assessment.

EU regulations on cadmium in cocoa (STC 325)

Raised by:	Colombia, Ecuador
Supported by:	Brazil; Cameroon; Costa Rica; Cuba; Dominican Republic; Ghana; Guatemala; Jamaica; Mexico; Nicaragua; Peru; Venezuela, Bolivarian Republic of
Dates raised:	October 2011 (G/SPS/R/64, paras. 39-41), July 2012 (G/SPS/R/67, paras. 141-143), October 2012 (G/SPS/R/69, paras. 36-39)
Relevant document(s):	G/SPS/GEN/1173/Rev.1
Solution:	
Status:	Not reported
Date reported as resolved:	

2.97. In October 2011, Ecuador expressed concern that the European Union was considering modifying the maximum level of cadmium in cocoa and cocoa products, and was planning to apply a maximum limit between 0.3 and 0.5 milligrams per kilogram (mg/kg), in the context of Regulation (EU) No 420/2001. Ecuador urged the European Union to base any maximum limits on cadmium on appropriate scientific studies. The Joint FAO/WHO Expert Committee on Food Additives (JECFA) had established a level of acceptable weekly consumption of 5.8 micrograms of cadmium per kilogram of body weight (µg/kg), more than twice the tolerable weekly intake concluded by the European Food Safety Agency (EFSA). Ecuador requested further information on the EU risk analysis, and stressed that any possible maximum residue limit (MRL) should be set as low as reasonably possible (ALARP principle). Some of Ecuador's soil contained cadmium, but it had adopted mitigation measures so as to produce high-quality cocoa not detrimental to human health.

2.98. Brazil, Colombia, Costa Rica, Dominican Republic, Nicaragua, Peru and Venezuela shared the concerns raised by Ecuador. They asked the European Union to provide the technical and scientific basis on which it was considering regulating cadmium in cocoa and chocolate, and stressed that any possible maximum limits should be based on science.

2.99. The European Union recalled that neither it nor Codex had established a maximum level for cadmium in cocoa or cocoa products to date. However, JECFA had reviewed its toxicity in commodities in 2010 and set the tolerable weekly intake at approximately six micrograms per kilogram of body weight. In contrast, EFSA had identified a lower tolerable weekly intake of 2.5 µg/kg of body weight in 2009 and in 2010. Based on the 2009 and 2010 EFSA scientific opinions for cadmium, the European Union had initiated a review of maximum levels for cadmium in different types of foodstuffs, including chocolate and cocoa products sold to the final consumer, since cocoa and chocolate products contribute significantly to human exposure and in particular exposure of children. Discussions were still on-going, but any limits would be based on realistic

occurrence data of cadmium in cocoa and cocoa products compiled from different geographical origins and would be set as low as reasonably achievable.

2.100. In July 2012, Ecuador, on behalf also of Cameroon, Colombia, Ghana, Mexico, Nicaragua and Peru, recalled the previously raised concern about the EU decision to amend Regulation (EC) No. 1881/2006 to modify the maximum acceptable levels of cadmium in cacao and chocolate products (G/SPS/GEN/1173/Rev.1). The co-authors requested the European Union to clearly demonstrate the relative contribution of chocolate to dietary cadmium exposure and its adverse effects. In light of the significant differences in the JECFA and EFSA recommendations for tolerable weekly intake (TWI) and tolerable monthly intake (TMI) levels for cadmium, they urged the European Union to convene a joint EFSA-JECFA meeting with a view to reaching an agreement on the methodology used to establish such limits, and the outcomes. They stressed that the European Union should ensure that any limit it applied was in accordance with the SPS Agreement, and should take into account new data to review and harmonize methodologies to determine the cadmium content in relevant chocolate products. They also requested that, if the new measure were adopted, the European Union allow a transition period of at least five years, to permit producers to adapt to the measures. Cameroon, Colombia, Costa Rica, Cuba, Dominican Republic, Ghana, Guatemala, Jamaica, Mexico, Nicaragua, Peru and Venezuela echoed this concern.

2.101. The European Union noted that this was not a new concern, and that they were prepared to respond despite this being raised under "Other Business". The EU clarified that any amendment to Regulation 1881/2006 was intended to focus primarily on foodstuffs for which no maximum levels for cadmium currently existed. Maximum levels for other foodstuffs - such as vegetables and cereals which also contributed cadmium to the daily diet - already existed and therefore would not be treated in the proposal currently under discussion. The new proposal would instead focus on those foodstuffs such as chocolate/cocoa products and baby foods, for which no maximum levels were established. The European competent authorities were currently evaluating the data provided by cocoa producers in the past months and EU member States would discuss the maximum residue limits (MRLs) for cadmium in cocoa products this autumn. Differing consumption patterns of different chocolate products would be taken into consideration in the establishment of the MRLs, and a reasonable transition period provided. The European Union took this issue very seriously and looked forward to continuing dialogue with interested Members.

2.102. Codex stated that the issue of MRLs for cadmium in cocoa products was currently under discussion, and relevant data provided by members would be evaluated by JECFA. The issue would be addressed at the next session of Executive Committee of the Codex Alimentarius Commission in June 2013.

2.103. In October 2012, Ecuador explained that it had learned through the Directorate General for Health and Consumers (DG-SANCO) of the European Commission that new maximum levels of cadmium in food were being considered. A summary report of the Standing Committee on the Food Chain and Animal Health showed a clear discrimination between cocoa products and other food stuffs. The European Commission's proposal focused only on products for which no maximum levels existed; but differentiated between chocolate and cocoa products on the one hand and vegetables and cereal products. For the latter products, due to concerns about costs, more time would be given to farmers and food business operators to put measures in place to reduce cadmium levels. This discriminatory treatment was arbitrary, unjustified, and disproportionate and could result in unnecessary restrictions to international trade. Ecuador requested that chocolate and cocoa products receive equal treatment as vegetables and cereals, to prevent any unjustified discrimination. Furthermore, if new cadmium levels were set, these should be based on an appropriate risk assessment, and comply with the WTO principles of proportionality, transparency and consideration of the special needs of developing countries.

2.104. Cameroon, Colombia, Cuba, Dominican Republic, Jamaica, Mexico, Nicaragua, Peru and Venezuela supported the concern by Ecuador, further noting that the EU measure would adversely affect the small and subsistence farmers and producers of cocoa in developing countries. The EFSA scientific opinion indicated that chocolate and cocoa products were not the main source of cadmium intake, however the major contributors of cadmium in the diet were not included in the proposed EU regulation. There was no Codex standard for cadmium nor agreed international analytical methods or procedures to determine the presence of cadmium, which made it difficult to compare the levels of cadmium in these foods.

2.105. The representative of the WHO indicated that JECFA was scheduled to consider cadmium levels in cocoa at its meeting in June 2013. JECFA had issued a call for data, but not yet received any data from exporting countries regarding their controls on levels of cadmium in cocoa products, or information on cadmium levels at different processing stages.

2.106. The European Union acknowledged the concerns of exporting Members and noted that the discussions were still at the technical level with no maximum levels yet proposed. The proposal would initially focus on foodstuffs such as chocolate, cocoa products and baby foods, for which maximum levels did not yet exist, and at a later stage would review other food commodities for which maximum levels already existed. The meeting of the International Cocoa Organization (ICCO) in October 2012 had provided an opportunity for an exchange of views on the issue and the data provided by some Members on cadmium in cocoa products would be considered. The European Union was confident that a balanced proposal would result from the legislative process and that any negative effects would be kept to a minimum.

EU limits of aluminium in flour products (STC 331)

Raised by:	China
Supported by:	
Dates raised:	March 2012 (G/SPS/R/66, paras. 26-27)
Relevant document(s):	G/SPS/N/EEC/341
Solution:	
Status:	Not reported
Date reported as resolved:	

2.107. In March 2012, China expressed concerns about EU limits on aluminium content in flour products (EC669/2009 and EC887/2010), and excessive testing. The strict requirement by the European Union had impacted China's exports of flour products. The current EU standard based on a 2008 EFSA recommendation set out a maximum aluminium content of 10 mg/kg, so as to ensure that the weekly intake of aluminium was below 1 mg/kg of body weight. However, in 2011, JECFA changed this weekly intake of aluminium to 2 mg/kg of body weight. China urged the European Union to reassess the limits for aluminium content in flour products on the basis of the new data from JECFA, as unnecessary restrictions on international trade, on the premise of safety grounds, should be avoided.

2.108. The European Union highlighted the health risks of aluminium, whose use as a food additive had been prohibited based on the 2008 EFSA opinion. A low tolerance had been established for naturally occurring aluminium in flour. When the level of aluminium detected in food exceeds 10 mg/kg, it is a clear indication that a food additive containing aluminium has been used. In 2011, there were 35 notifications in the EU rapid alert system for food and feed (RASSF) on high levels of aluminium in noodles from China, with levels up to 50 mg/kg. Since October 2010, dried noodles from China had been subjected to an increased control frequency of 10%, which would continue until there was a clear indication that Chinese noodle manufacturers were no longer using additives containing aluminium.

EU testing of pesticide residues (STC 335)

Raised by:	India
Supported by:	Pakistan, Viet Nam
Dates raised:	July 2012 (G/SPS/R/67, paras. 24-26)
Relevant document(s):	G/SPS/N/EU/22
Solution:	
Status:	Not reported
Date reported as resolved:	

2.109. In July 2012, India expressed concerns over the EU notification which proposed to include in Annex I of Regulation (EC) No. 396/2005 new fruits, vegetables and cereals that had become available on the EU market (G/SPS/N/EU/22). In the modified regulation, paddy rice would be

tested for residues instead of the whole rice grain. Testing for MRLs was usually undertaken on the food ready for consumption. In the case of rice, which could not be consumed raw, testing should be on the whole grain rice instead of the paddy rice. Paddy rice would always have higher levels of pesticide residues as pesticides were sprayed directly on it, but paddy rice was not directly consumed. This was recognized, for example, in Part 180, title 40 of the US Code of Federal Regulations on "Tolerances and Exemptions for Pesticide Chemical Residues in Food". Exporters would find it more difficult than necessary to meet the proposed EU requirements, thereby impacting trade, and India requested that the European Union provide its scientific justification for the proposed change. Pakistan and Viet Nam expressed their interest in the issue.

2.110. The European Union explained that the reason for the proposed changes was to respond to consumers' demands to include new fruit, vegetables and cereals which had more recently become available on the EU market, and to modify the parts of products on which the residues should be analysed. The European Union had not modified any practices on testing of pesticides residues. On the contrary, the rules had been made more transparent for all trade partners through the publication of all available validation methods for pesticide residues and by providing, through WTO channels, information on all activities related to the regulation. After consideration of comments received and further exchanges with stakeholders, the European Union had decided to keep the current practice concerning rice, which meant that residues would be analysed on the whole grain product and not paddy rice. The EU underlined that its legislative procedure was non-discriminatory, transparent and able to take third country requests favourably into consideration, as in this case.

2.5 India

2.5.1 Animal Health

Restrictions due to avian influenza (STC 185)

Raised by:	European Union, United States of America
Supported by:	Australia, Canada, China
Dates raised:	March 2004 (G/SPS/R/33, paras. 18-20), June 2004 (G/SPS/R/34, paras. 42-43), October 2004 (G/SPS/R/35, paras. 59-60), June 2007 (G/SPS/R/45, paras. 21-23), October 2007 (G/SPS/R/46, paras. 29-32), April 2008 (G/SPS/R/49, paras. 33-38), June 2008 (G/SPS/R/51, paras. 31-35), October 2008 (G/SPS/R/53, paras. 29-34), February 2009 (G/SPS/R/54, paras. 17-20), June 2009 (G/SPS/R/55, paras. 43-46), October 2009 (G/SPS/R/56, paras. 40-43), March 2010 (G/SPS/R/58, paras. 37-40), June 2010 (G/SPS/R/59, paras. 39-41), October 2010 (G/SPS/R/61, paras. 25-28), March 2011 (G/SPS/R/62, paras. 37-40), June 2011 (G/SPS/R/63, paras. 64-68), October 2011 (G/SPS/R/64, paras. 81-93) (G/SPS/R/64/Add.2, paras. 1-2)
Relevant document(s):	G/SPS/N/IND/13/Add.1, G/SPS/N/IND/14, G/SPS/N/IND/46/Add.3, G/SPS/N/IND/46/Add.4, G/SPS/N/IND/46/Add.5, G/SPS/GEN/1138, WT/DS430/1, WT/DS430/3
Solution:	Dispute settlement panel established on 25 June 2012. Panel request: document WT/DS430/3
Status:	.
Date reported as resolved:	

2.111. In March 2004, the European Communities raised concerns on measures applied by India on 3 March 2004 on imports of live birds, fresh poultry meat and fresh poultry meat products due to avian influenza. Contrary to Annex B of the SPS Agreement, these measures had not been notified. In addition, India's restriction on EC products was disproportionate to the health risks associated with these imports since the European Communities was free of highly pathogenic avian influenza. The European Communities reminded India of existing OIE standards on avian influenza and requested that India lift the restrictions on EC products.

2.112. The United States stated that it shared the concerns of the European Communities.

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

2.114. In June 2004, the European Communities stated that India continued to apply import bans on a range of poultry products, including live birds, fresh meat and fresh meat products from several countries allegedly in response to highly pathogenic avian influenza (HPAI), since February 2004. These blanket import bans were disproportionate to the risk and should be confined to imports from regions affected by the disease in accordance with OIE recommendations. The European Communities was officially free of this disease, according to the OIE criteria, and had implemented safeguard measures to protect this sanitary status. The European Communities asked that India review the current ban and lift all restrictions on poultry products from the European Communities.

2.115. India responded that measures prohibiting poultry and poultry products had been implemented as temporary measures. New outbreaks of HPAI in WTO Members, but not within the territories of the European Communities, had been reported as recently as 4 June 2004. Since poultry production in India was typically a family-run business, Indian authorities were particularly concerned about potential human development of the disease.

2.116. In October 2004, the European Communities expressed concerns that India continued to impose a ban on some live animals and a range of products of animal origin due to the risk of entry of HPAI into India. India had issued two notifications, on 7 July and on 6 August, informing Members of the relaxation of the ban for a range of products. However, the ban was disproportionate to the risk and there was no scientific basis for some of the measures imposed by India. The ban should be confined to regions affected by the disease following OIE guidelines and recommendations. The European Communities recalled that it was free of HPAI and maintained this sanitary status. India was requested to review its ban and bring its measures into conformity with the SPS Agreement.

2.117. India reiterated that the ban was a temporary measure which was enforced due to the outbreak of avian influenza throughout the world. The prevalence of the family-based poultry industry and the significant numbers involved in the industry would make it impossible to control the disease if it spread to India. The situation had been under constant review since the imposition of the ban in February 2004. The ban on imports of poultry with vaccination and specific pathogen free eggs was lifted in July 2004. A subsequent review by an expert group resulted in the continuation of the ban on imports of certain products such as live and raw poultry and pig meat. Processed products from HPAI infected countries were allowed into India, however, and the situation continued to be monitored.

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

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

2.120. India noted that high or low pathogenic strains of AI had been reported in more than 60 countries, and his authorities were concerned that the virus was spreading. The virus had important human health implications, given its high fatality rate. India had experienced an outbreak of HPAI in 2006 which had been successfully contained, and the country was now free of the disease. India was trying to safeguard animal and human health in its territory, and protect its family-run poultry industry. It therefore banned imports of poultry from any country which had experienced an outbreak of AI, whether highly pathogenic or low pathogenic. The United States had reported an outbreak of low pathogenic AI. Countries free from AI could export livestock to India, and pathogen-free eggs for vaccine production were permitted from any country, regardless of its AI status. Because many wild birds visited India, this was a vector of concern. With regard to pet food, India had revised its health protocol notified in June 2007, and would take into account the comments made on this matter.

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

2.122. The European Communities stated that India failed to recognize the difference between high and low pathogenic influenza as well as the AI-related differences between wild birds and domestic animals. The European Communities again encouraged India to follow the recommendations from the OIE.

2.123. India stressed the dangers related to AI and how widespread the virus had been. Following the 2006 HPAI outbreak in India, the country was extremely cautious to safeguard its animal and human health, particularly in view of the family run poultry industry in India and because AI was known to reoccur in countries where outbreaks had previously taken place. India restricted imports from countries reporting AI. The United States was currently positive for low pathogenic AI in poultry (LPNAIH5). India's import restrictions due to outbreaks of AI in the United States were clarified in detail to the United States during the last trade policy forum meeting held in New Deli. India contested the claim that its regulations were not based on science by observing that the presence of LPAI in poultry was a notifiable disease according to the OIE as per the list of diseases in Article 2.1.3 of the Terrestrial Animal Health Code. Furthermore, as noted by USDA's factsheet on AI, LPAI had a high potential to mutate into highly pathogenic AI; a view that India shared. Nonetheless, India regularly reviewed its trade regulations in the light of new developments on AI. Regarding the concerns with pork products, there were numerous scientific reports that pigs could be easily infected by many human and AI viruses and, therefore, could provide an environment favourable for viral replication and genetic re-assortment. The fast mutating nature of the AI virus, along with the possibility that the virus could re-combine with other subtypes, made pig and pig products a risk. With regard to wild birds, India indicated that consultations with experts had taken place and that the Indian authorities were of the view that wild birds could not be ignored with respect to AI. The US and EC concerns would be reported back to India's technical experts for review.

2.124. OIE clarified the recommendations of the OIE and how they should be put in practice. The listing of diseases such as HPAI and low pathogenic notifiable avian influenza (LPNAI) was first and foremost for disease reporting purposes and related to the question of transparency. Findings of AI in wild birds and of LPNAI should not lead to import bans. There needed to be a distinction drawn between reporting and the imposition of measures. OIE reiterated that there was no scientific basis for restrictions on pigs and pig products in relation to AI, whether it be high or low pathogenic strains, and this point was clear in the OIE terrestrial code. OIE was concerned that the imposition of measures that were not scientifically based worsened the risks for spread of disease because

countries were discouraged from proper reporting if they believed that the reporting would lead to unjustifiable measures. It was of utmost importance that countries report their diseases.

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

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

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

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

2.129. India noted that AI continued to spread, and that it had serious human health implications with hundreds of persons already affected. India had previously had an outbreak, and despite its efforts to eradicate the disease, new outbreaks had occurred. India viewed low and high pathogenic strains of AI with equal concern, regardless of whether in poultry or wild birds, and was not permitting imports from affected countries. Low pathogenic AI presented a high potential risk, as the science showed that the virus was constantly evolving and there was a possibility of low pathogenic AI mutating into a highly pathogenic strain. With respect to the OIE guidelines, India had voted against the resolution in the last annual session which proposed that low pathogenic AI was not a concern for international trade. India was not the only country taking such measures, and Egypt had apparently imposed similar requirements. India had recently reviewed and modified its measures on pathogen free eggs, and pet food, and agreed to provide information to the European Communities shortly. The concerns raised by other Members would be communicated to technical experts in capital. India assured all Members that it would abide by its WTO obligations.

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

2.131. In June 2008, the European Communities reported that India continued to apply a ban on the imports of poultry, swine, and their products, from areas that had reported outbreaks of either low- or high-pathogenic AI in wild bird populations only. In addition, India restricted the importation of products also from areas where low pathogenic AI had been found, disregarding the OIE standards which assured the complete elimination of risks and allowed products to be safely traded. The ban on imports of pigs and pig meat was not justified according to the OIE, nor had

India provided scientific justification for the ban. India's restrictions were disproportionate and the European Communities requested India to review its measures without delay.

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

2.133. The United States supported the concerns raised, observing that India's measure had been introduced and maintained without scientific evidence or risk assessment. India's argument that low pathogenic AI had the potential to mutate into the highly pathogenic form, and that virus re-assortment could occur in swine, had been addressed by the OIE. The United States had requested a copy of India's risk assessment that supported its ban, but this had not been provided.

2.134. China supported the concerns raised and requested India to revisit its measure in order to comply with OIE recommendations.

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

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

2.137. The United States expressed concerns regarding India's extension of its emergency measures prohibiting a wide range of products because of AI. These measures were not based on scientific evidence or on risk assessment. The United States renewed the request to India to provide a copy of their AI risk assessment. Finally, India was requested to modify its measure to address the concerns expressed by several Members.

2.138. In response to the US request, India proposed that a technical discussion between India and other technical experts be held. The United States invited India to bring its technical experts to the next meeting of the SPS Committee and again requested a copy of India's risk assessment. India suggested that instead of waiting for the next meeting the experts could meet before then, perhaps through a video conference, which could allow a resolution before the next meeting. India reported that the import restriction of AI related products had been discussed in the OIE, in the SPS Committee, and in various bilateral meetings with countries including the European Communities and the United States. India had been reviewing the policy of AI and its trade implications every six months. This led to the removal of import restrictions on different processed pig products from AI-positive countries. India would continue to review its restrictions and keep only those which affected human and animal health. India suggested that the discussion should stay among experts.

2.139. The OIE stated that countries should notify the presence of AI in domestic and wild birds. However, notification of the early detection of AI in wild birds was requested for purposes of

transparency and should not lead to trade restrictions. OIE urged OIE members to send their scientific evidence to OIE, to be considered when making necessary amendments to the standards established in the OIE codes.

2.140. In February 2009, the United States expressed disappointment that India continued to maintain its emergency measures prohibiting a wide range of products because of AI without scientific evidence or a risk assessment. Appropriate measures for AI did not include trade restrictions on swine or swine products, trade measures related to notifiable AI in wild birds, or prohibitions on heat-treated products. In addition, Members should distinguish between highly pathogenic and low pathogenic AI. The United States welcomed India's previous proposal for a technical level meeting to discuss the issue, and again urged India to present its risk assessment so that a technical discussion could be scheduled.

2.141. The European Communities welcomed the recent lifting by India of some AI-related restrictions, but supported the US concerns that the remaining restrictions were unjustified and went against the OIE Code, in particular the lack of distinction between outbreaks of highly pathogenic and low pathogenic AI.

2.142. India explained that since many countries reported AI, and because of the human health implications, it was natural that Members were extremely cautious to safeguard animal and human health. This was particularly true in India, since its poultry industry was largely family-run. Many Members had adopted AI measures, including import bans. India had banned imports of poultry and swine products from countries reporting both low and highly pathogenic AI, since one strain of the virus could mutate into the other. An FAO publication acknowledged that mutation to virulence had been demonstrated, and the USDA website also admitted this. At the OIE General Session, India had voted against the resolution stating that low pathogenic AI was not a trade concern. India believed that trade interests should not take precedence over human health concerns, but accepted that science was evolving and had provisions for reviewing its AI measures. As a result, trade restrictions on certain products from AI positive countries had been lifted. India had recently reviewed the restrictions on pig meat and found there was minimal risk, especially when processed. India had thus decided to lift restrictions on pig products and on processed poultry products. The reviews would continue. India had taken note of the US concerns, had had bilateral meetings with the United States and the European Communities, and would convey their concerns to the relevant authorities.

2.143. The OIE indicated that AI was a major challenge for trade in poultry products. The relevant standards were in place and the OIE did not receive many comments from OIE members; the standard seemed to be well accepted. Currently the OIE was looking at conditions for trade in pet food and various by-products such as feather meal. Members should review the AI standards and raise any concerns at the OIE. The OIE clarified that there were a number of publications on AI, some by the OIE, some by FAO, some joint. For international trade, the relevant standard was in the OIE Terrestrial Animal Health Code.

2.144. In June 2009, The European Communities appreciated the bilateral meetings with India but remained concerned that India's measures were not consistent with OIE standards. Despite having raised the concern previously, India continued to make no distinction between low and high pathogenic AI, and had still not shared its scientific justification for the measures. The European Communities regretted that India did not adhere to the principle of regionalization, and furthermore that India banned imports of live pigs citing AI fears but had no such ban on the domestic market. The European Communities called upon India to base its import requirements on the relevant international standards.

2.145. The United States shared the concern raised by the European Communities and noted that India prohibited the import of a large number of items, in disregard of the relevant OIE Chapter. The United States requested that the bans on swine be lifted and that scientific justification be provided for all measures. In addition, the United States requested India to provide a copy of its risk assessment for the measures relating to AI.

2.146. India stated that the ban on pork products was taken to prevent an outbreak of AI. The measures were based not only on OIE guidelines, but on relevant scientific literature. Technical experts re-evaluated the scientific information every six months, and now imports were banned

only from those countries reporting H5 and H7 strains of low pathogenic AI. India was concerned that the low pathogenic virus could mutate into the high pathogenic virus, which had a greater impact on animal and human health. Trade concerns should not interfere with the protection of human and animal health. All restrictions regarding pork and poultry products except live pigs had been lifted from areas reporting AI, because the AI virus could mutate in the pigs, as both human and AI viruses had established stable virus lineages in pigs. India applied the same measures to domestic products as to imports. India thanked the European Communities for fruitful bilateral discussions on 22 June 2009, and expressed its commitment to dialogues with all interested Members.

2.147. OIE drew attention to the informal dispute resolution procedure of the OIE as a means to resolve technical differences relating to provisions of the Terrestrial Animal Health Code.

2.148. In October 2009, the European Communities recalled that India still failed to base its requirements on OIE standards, and still maintained a ban on live pigs, pig semen and products such as feathers for reasons of AI. Furthermore, India did not recognize the regionalization principle, applied strictly in the European Communities where affected zones were placed under strict biosecurity measures, and instead India required total country freedom from AI. Although India had announced unprocessed meat would no longer be blocked for reasons of AI, India's requirements stated that only heat-treated pig meat could be imported, a measure not in line with international standards. The European Communities requested India to provide scientific evidence justifying its strict measures; to bring its import requirements in line with international standards; and to recognize the regionalization principle as applied in the European Communities.

2.149. The United States stated that India's ban and AI import requirements were not in line with OIE standards. India continued to prohibit the import of pigs and of a wide range of avian species and avian products without a risk assessment that supported the measure. India had maintained an emergency measure in one form or another since 2002 and its emergency notifications since 2004 had essentially blocked all imports. Sufficient time had passed for India to complete an import risk assessment and to adopt OIE-consistent measures. The United States requested India to provide its risk assessment and to modify its measures to address the concerns expressed by a number of Members.

2.150. India stated that the notification issued on 28 August 2009 prohibited the import of poultry and poultry products and live pigs from countries reporting both highly pathogenic and low pathogenic AI. India's technical experts had observed that symptoms of highly pathogenic AI were noticeable and the infection could be controlled, but low pathogenic AI might pass unnoticed and the control of the infection could become difficult. Additionally, there was no data available confirming that low pathogenic AI could not mutate into highly pathogenic AI. Imports were currently allowed based on the AI status of the exporting country. The Indian authorities had commissioned a lab-based study of domestic pigs to confirm the chances of genetic re-assortment of the virus in live pigs that could produce new influenza viruses. As notified, India permitted the import of poultry products from countries reporting AI subject to a conformity assessment. Comments received from trading partners on this notification were under examination.

2.151. OIE stated that there were some differences at a scientific and technical level in relation to this matter, and reminded Members of the OIE's informal mechanism to resolve differences at a scientific and technical level.

2.152. In March 2010, the United States stated that India was alone among the world's leading trading partners in imposing severe import requirements related to AI, that were not in line with those established by the OIE. India continued to maintain emergency measures prohibiting a wide range of pig and avian products. Furthermore, India had not provided timely emergency notifications to the WTO Secretariat, as it had extended its AI emergency measures on 28 August 2009, but not yet notified it. The United States had for several years repeatedly requested a copy of India's risk assessment, but this was never provided.

2.153. The European Union supported the US concerns regarding India's ban on imports of a number of products and live animals that, according to the OIE, should not be restricted. The European Union highlighted the importance of the use of the SPS notification system by India. The European Union also repeatedly requested India's risk assessment for its AI measure, but had not

obtained it. Moreover, India did not recognize the regionalization principle, as applied in the European Union whenever an outbreak of AI occurred.

2.154. OIE encouraged WTO Members to implement the OIE standards on AI, since they were based on science and had been democratically approved.

2.155. India reported that as notified, it imposed an import ban on live pigs, poultry and other poultry products from countries reporting either the H5 or H7 strains of AI. There was no import ban on live pigs, poultry or poultry products from countries reporting AI in wild birds, other than poultry. The ban was imposed on countries with both LPAI and HPAI, as the LPAI virus might mutate into HPAI virus. India conducted a detailed risk analysis for the importation of animal and animal products, by a committee of experts, based on the existing global situation of AI, available scientific literature and the OIE standards. The justification for imposing the ban on live pigs was due to the fact that pigs were known to act as mixing vessels for human, animal and other influenza viruses. The ban on pigs would be reviewed after the completion of some technical studies.

2.156. In June 2010, the European Union reiterated the concerns regarding India's restrictions due to AI and the lack of notification by India on the issue. India had announced via its website that it would review its import conditions related to AI every six months however, that information had not been notified to the WTO. The European Union recalled that on several occasions India had been requested to provide scientific justification for imposing import restrictions above the OIE standard on AI. During its May 2010 General Assembly, the OIE had confirmed that its AI standard was well supported by scientific evidence, and it had also been clarified that there was no risk related to trade in fresh meat with regard to low pathogenic AI. The European Union also requested India to recognize the regionalization principle of the SPS Agreement, which was strictly applied in the European Union when an outbreak of AI occurred. The European Union requested that India fulfil its transparency obligations, and either bring import requirements fully in line with international standards, or share the scientific evidence invoked to justify its measures.

2.157. The United States supported the concerns raised by the European Union, stating that India stood alone with respect to the scope of its AI -related bans, which were not in line with OIE standards. The United States expressed disappointment that these bans continued as emergency measures, thereby prohibiting the imports of live pigs and a wide range of avian species and avian products without a risk assessment. The United States noted that, on numerous occasions, India had not provided a timely notification of its AI-related import restrictions. For example the last notification was on 31 March 2009, extending the ban for six months. However, the ban continued to be applied despite the lack of a new notification. The United States and the European Union had repeatedly asked India to provide its risk assessments to support the imposition of import requirements beyond OIE recommendations. The United States urged India to provide its risk assessment and modify its measures to address the concerns repeatedly expressed by several Members.

2.158. India replied that the situation had remained unchanged although, based on changed conditions, India had allowed some restrictions to be temporarily lifted. The Indian Department of Animal Husbandry had reviewed its sanitary conditions and removed AI related restrictions for the import of pork products (raw and processed pork). India reported that presently there was no ban on the import of pork products (raw and processed pork) from AI positive countries. However, the import of live pigs continued to be prohibited from AI -positive countries. Furthermore, the import of processed poultry and poultry meat products were allowed from AI positive countries subject to conformity assessment for both LPAI and HPAI. India cited scientific evidence that LPAI had the potential to mutate into HPAI, particularly in wild aquatic birds.

2.159. In October 2010, the United States indicated that India continued to maintain the AI bans as emergency measures, and prohibited the import of live pigs and a wide range of avian species and products without providing a scientific justification for exceeding the international standards. Despite repeated requests, India had not provided its risk assessment until the October 2010 SPS Committee meeting. Moreover, India had failed repeatedly to notify its AI related import restrictions in a timely manner. In March 2010, India had announced a new extension of its emergency measures, and also that products from countries reporting any notifiable AI in domesticated or wild birds would be banned. Those new measures had not been notified to the WTO.

2.160. The European Union shared the US concerns about the emergency measures taken by India and the lack of transparency. India had failed to provide an opportunity for WTO Members to comment before measures were put in place. India had not made public the outcome of the last review of its import conditions on AI, although it had reported to the SPS Committee that this took place every six months. The European Union called on India to share its risk assessment or other scientific justification for its import measures, and to recognise the principle of regionalization as foreseen under the SPS Agreement.

2.161. India recalled that it had continuously explained the reasons for its measures, and changes to these. At the last Committee meeting, India had reported on the lifting of the ban on imports of pork products, although imports of live pigs were still prohibited from AI positive countries. Processed poultry and poultry meat products were allowed from AI positive countries subject to certain conformity assessment requirements, thereby facilitating trade while continuing to protect human and animal health. India remained concerned that LPAI had the potential to mutate into highly pathogenic strains. India noted that Article 10.4.1 of the OIE Terrestrial Animal Health Code prohibited trade in poultry and its products from LPAI-positive countries. India had provided its risk assessment on AI directly to the United States, and was willing to share it with other Members upon request.

2.162. OIE expressed an interest in receiving India's risk assessment. The OIE stressed that the OIE standards did not justify trade restrictions on the basis of reports of LPAI in wild birds. AI was widespread in wild birds and the OIE requested that this be notified so as to provide valuable data, but did not recommend any trade restrictions on this basis.

2.163. In March 2011, the European Union indicated that the risk assessment provided by India did not provide scientific basis to India's AI restrictions. The European Union asked the OIE whether India's risk assessment provided grounds for changes to the existing OIE standards. The European Union also urged India to recognize the principle of regionalization, and bring its import requirements in line with international standards.

2.164. The United States stated that it was still reviewing India's risk assessment on AI. The United States would raise its scientific concerns with India bilaterally and would keep the Committee informed of its discussions with India, the European Union and the OIE.

2.165. OIE stated that the OIE did receive India's risk assessment, and that the OIE had subsequently sent a response requesting clarification on the nature of the document.

2.166. India indicated that it would follow up on the response sent by the OIE, and flagged the need to first discuss the risk assessment India had provided before proceeding further.

2.167. In June 2011, the European Union recalled that India had finally provided a risk assessment in October 2010, but observed that the risk analysis provided by India did not provide any additional scientific information that justified a deviation from the existing OIE standards on AI. The risk assessment was incomplete and lacked the necessary elements. Furthermore, the paper from India had not triggered any change to the existing OIE standard during the latest OIE General Session in May 2011, and the existing standards remained the benchmark against which to measure restrictions. India was therefore requested to bring its import requirements fully in line with international standards and to recognize the concept of regionalization, as applied in the European Union, in implementing its measure.

2.168. The United States supported the concerns of the European Union, and agreed that India's risk assessment was not consistent with international standards for conducting a risk analysis, nor did it contain sufficient scientific evidence to support India's ban. India's restrictions related to AI did not conform to OIE standards and were not scientifically justified. Repeated attempts to make progress with India at a technical level had reached an impasse. The United States proposed to prepare a list of concerns regarding the assessment, together with the European Union and the OIE, and asked India to address these concerns no later than 15 August 2011. India should also lift its current restrictions while the United States and India worked together on a valid science-based assessment. If the issues could not be resolved through collaboration, the United States might petition the OIE to help mediate the issue and to provide expertise to ensure that the matter was resolved in a manner consistent with international standards and India's WTO obligations. The

United States hoped to report a positive resolution to the next Committee meeting in October 2011.

2.169. Australia shared the concerns of the European Union and the United States, and encouraged all Members to take a measured approach to instances of notifiable AI and not to implement unnecessarily trade restrictive measures in relation to this disease.

2.170. OIE stated that they had received a letter from India clarifying that the provision of the risk assessment document to the OIE had been for information purposes. The OIE would be happy to review India's risk assessment if so requested, as well as to initiate a dispute mediation process if both parties agreed.

2.171. India clarified that during the October 2010 Committee meeting, they had provided their risk assessment supporting the ban on imports of poultry and poultry products from AI positive countries to the United States and the European Union, as requested. This was not the final risk assessment document, which would take some time. India welcomed inputs on the information it shared, and was examining a response from the European Union. The EU-India joint working group would also discuss this issue on 17 July 2011. India encouraged trading partners to address this issue in bilateral discussions.

2.172. In October 2011, the United States recalled that it had raised this concern on numerous occasions, as bilateral efforts to resolve the matter had not succeeded, and on 19 July 2011, India had published an extension of the restrictions. The United States did not consider that the restrictions were justified by the risk assessment provided by India, and had requested the removal of the restrictions or modification of the risk assessment by 19 August 2011, but no response had been received. The United States and European Union had thus jointly requested the OIE to provide an expert opinion of the risk assessment document provided by India. The OIE had provided a copy of its expert opinion to India, the European Commission and the United States on 4 October 2011, and the United States requested that the OIE be given the floor to summarize its findings.

2.173. The European Union also indicated that, as it had already stated earlier, the risk analysis provided by India was not complete and did not evaluate the likelihood of entry, establishment or spread of the disease, and the associated potential biological and economic consequences, nor had the document led to any changes to the OIE standards. The European Union urged India to bring its import requirements fully into line with the relevant international standards, including through the recognition of regionalization.

2.174. After offering the floor to other Members, the Chairman gave the floor to the OIE. However, India requested, as a point of order, clarification of the procedures regarding participation of observer organizations in the discussion of specific trade concerns. The Secretariat noted that according to the rules of procedure of the Committee, observers could be given the floor under any agenda item, and that it was the practice in the Committee to give international organizations the floor regarding specific trade concerns that related to international standards.

2.175. OIE indicated that, at the request of the European Union and the United States, it had asked two experts to review India's risk assessment. The experts had concluded that the scope and purpose of the risk assessment was not clearly defined, and that the assessment was poorly supported by references to the relevant scientific literature. The experts had concluded that the document did not meet the definition of an import risk analysis as set out in Chapter 2.1 of the OIE Terrestrial Animal Health Code.

2.176. India clarified that it had not formally provided any scientific risk assessment to the OIE. In October 2010, India had provided a summary report on an informal basis to the European Union and the United States. India clarified that the document had also been provided to the OIE on an informal basis, and that it was a summary document, not a full risk assessment. India considered that it was inappropriate for the OIE to comment on an incomplete document and also questioned whether the OIE had a mandate to validate a risk analysis of a Member. Furthermore, in a letter dated September 2011, India had requested the OIE to review its guidelines in order to prevent the spread of important diseases to developing countries that did not have the resources to

contain and control such diseases. India had also detailed the justifications for its restrictions varying from the OIE guidelines in that letter, and was awaiting a reply from the OIE.

2.177. The United States observed that the OIE's comments confirmed that India's measures were not in accordance with the international standards, nor were they supported by a risk assessment. If this was not a final risk assessment, India should immediately remove the trade restrictions that had been maintained for nearly five years without sufficient scientific support.

2.178. OIE indicated that at the SPS Committee meeting in October 2010, they had received from India a copy of the same risk analysis document which they had been requested to review by the European Union and the United States.

2.179. Chile, Argentina and Peru noted that the expert opinion provided by the OIE was different than information provided in the past regarding how particular measures compared with the relevant international standards, and suggested that the Committee should in future consider whether it was the appropriate role of the international standard-setting bodies to validate the risk analysis relied upon by a Member.

2.180. The European Union recalled that it had previously questioned whether India's measures were based on a valid risk assessment, and stressed that the key question now was whether India would continue to maintain these measures, or bring them into line with the OIE standards.

2.181. As a subsequent point of order, India questioned whether the OIE should have been permitted to take the floor on this issue as per the procedures and provisions of the Committee and Agreement. Under Annex 3 of WT/L/161, the purpose of granting observer status was to enable an organization to follow discussions on matters of direct interest to them. The agreement between the WTO and the OIE (WT/L/272) also indicated that the OIE would be invited to participate in deliberations on agenda items on which the OIE had an interest. The OIE was a highly reputed organization recognized for its standard-setting for animal health and zoonosis, however India did not consider that it was appropriate for an observer to judge a Member's rights and obligations. India considered that other Members had the right to comment on each other's measures and policies, but that this right was not extended to observers and that allowing observers to express judgements on Members' policies had serious systematic consequences. Under Article 13 of the SPS Agreement, a Member was fully responsible for the observation of all of the obligations set out therein, and in India's view the OIE could not be considered to have an interest in how India was carrying out its risk assessment. India stated that allowing OIE to comment even before India was given an opportunity to speak was a clear case of inconsistency with due procedures as laid down in WT/L/161. India thus requested that what it considered to be the unauthorized intervention of the OIE not be reflected in the report of the Committee meeting.

2.182. The United States recalled that on numerous occasions since this issue had been raised the OIE had provided clarification when a Member has claimed that its measure was consistent with the international standards for avian influenza. India had indicated for many years that its measure was justified by a risk assessment, which was finally provided in October 2010. It was only in June 2011 that India indicated that this was a draft risk assessment, and at that time India had invited comments on its document. It was in this light that the United States and European Union had requested the OIE to review the document, and the assessment of the OIE should be reflected in the report of the meeting. The United States welcomed the suggestion that the Committee consider the issue of the role of observers, and in particular of the Three Sister organizations, in the work of the Committee.

2.183. The European Union indicated that it understood the concern that the international organizations should not interpret the rights and obligations of Members under the SPS Agreement. These three organizations had a specific role to play in the Committee as the developers of the reference standards, hence the current practice in the Committee to rely on the advice and information provided by these organizations with regard to their standards and guidelines. The question that had been posed to the OIE in this case was whether the import risk assessment conformed to the OIE guidelines for such an assessment. The European Union did not understand the statement from the OIE to be an interpretation of the rights and obligations of any Member under the SPS Agreement.

2.184. The Chairman recalled that Rule 36 of the Rules of Procedure of the SPS Committee (G/L/170) indicated that a summary report of each meeting would be prepared by the Secretariat. As there was no consensus in the Committee to not include the statement of the OIE as requested by India, the Chairman ruled that the summary report should clearly reflect the debate on this matter. In accordance with Rule 36, any delegation could request, within 10 days of the close of the meeting, the opportunity to verify those portions of the draft report containing their statements prior to the issuance of the summary report.

2.185. In accordance with the provisions of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the United States requested consultations with India on 8 March 2012 (WT/DS430/1). The Dispute Settlement Body established a panel on 25 June 2012 (WT/DS430/3).

2.6 Indonesia

2.6.1 Food safety

Permits on horticultural products (STC 343)

Raised by:	United States of America
Supported by:	New Zealand
Dates raised:	October 2012 (G/SPS/R/69, paras. 177-179)
Relevant document(s):	G/LIC/Q/IDN/32, Ministry of Agriculture Regulation 60
Solution:	
Status:	Not reported
Date reported as resolved:	

2.186. In October 2012, the United States stated that it was concerned about Indonesia's Ministry of Trade Regulation 30, notified to the Import Licensing Committee as G/LIC/Q/IDN/32; and Ministry of Agriculture Regulation 60. Neither of these measures had been notified to the SPS Committee for comments by trading partners, yet both identified food safety as a primary objective. Both regulations resulted in the implementation of an import permit system with the potential to disrupt trade, but gave exporters and importers little information and no time to comply with the requirements. Accordingly, Indonesia was requested to notify both Regulations 30 and 60 and to provide time for comments before implementation, and also to provide scientific evidence that the import permit system was necessary to protect human, animal and plant health. New Zealand supported the concerns of the United States and encouraged Indonesia to provide greater clarity on its measures through timely notification to the relevant WTO Committees.

2.187. Indonesia acknowledged the concerns of the United States and New Zealand regarding the Regulation 60 of the Ministry of Agriculture and the Ministry of Trade Regulation 30. Regulation 60 had been notified as an SPS measure, but the document had not yet been circulated. Indonesia noted that it had discussed the issue bilaterally with the United States and would follow-up.

2.6.2 Plant Health

Indonesia's port closures (STC 330)

Raised by:	China, New Zealand, United States of America, European Union
Supported by:	Australia; Canada; Chile; Japan; Korea, Republic of; South Africa; Thailand
Dates raised:	March 2012 (G/SPS/R/66, paras. 19-25), July 2012 (G/SPS/R/67, paras. 49-55), October 2012 (G/SPS/R/69, paras. 45-48)
Relevant document(s):	G/SPS/N/IDN/53, G/SPS/N/IDN/54, G/SPS/N/IDN/54/Corr.1
Solution:	
Status:	Not reported
Date reported as resolved:	

2.188. In March 2012, the United States raised concerns about Indonesia's plan to close several entry ports for imports of fruit and vegetables, including the main port of Jakarta (Tanjung Priok), originally scheduled for 19 March, but postponed until 19 June 2012. The port closure would threaten 90% of fresh fruit and vegetable exports to Indonesia, and the measure was not done in a transparent manner. The United States indicated its willingness to work with Indonesia to resolve any legitimate phytosanitary concerns Indonesia had with respect to fruit and vegetable imports, while also facilitating trade in these products. The United States urged Indonesia to notify these trade restrictions to the Committee and to provide scientific evidence to support them.

2.189. The European Union agreed that unnecessary trade disruption would occur from the port closure and recalled that any SPS measure should be no more trade restrictive than required and in line with the SPS Agreement. The European Union similarly encouraged Indonesia to notify its draft measures to the WTO and to allow sufficient time for formal comments from trading partners and related discussions.

2.190. Australia also expressed concerns with Indonesia's revised horticultural regulation, which was of major commercial interest to Australian exporters, and indicated its willingness to work collaboratively with Indonesia to resolve this issue. Chile indicated that it was closely following the concern and awaited the notification of Indonesia in order to work bilaterally on the issue. South Africa joined with other Members to request that Indonesia notify this regulation to the Committee with the necessary reasoning and documentation. South Africa indicated its willingness to cooperate with Indonesia to find a solution

2.191. Canada voiced concern that similar port closures could occur in the future for other commodities, for example, food of animal origin, which could have a negative impact on Canada's exports to Indonesia.

2.192. New Zealand noted particular concerns that the Jakarta seaport had not been included on the list of accepted entry points as 90% of NZ horticulture exports entered through that port. The port closures would result in higher costs and longer transport times, affecting the quality, value and shelf life of the perishable horticultural products. New Zealand requested justification for the implementation of this regulation and while noting Indonesia's comments regarding port capacity, observed that restricting the number of ports for horticulture imports would compound the problem by diverting trade to fewer and smaller ports. Although the delay in the implementation of the regulations was welcomed, New Zealand requested that the regulations be rescinded as trade to Indonesia would otherwise not be viable. New Zealand looked forward to working constructively with Indonesia and highlighted the need for a transparent approach.

2.193. .Indonesia reported that the Ministry of Agriculture had published new regulations No. 15 and No. 16 of 2012, which postponed the enforcement of regulations No. 89 and No. 90 from 19 March until 19 June 2012. The postponement of enforcement of the regulations was in order to provide sufficient time for stakeholders and trading partners to set up infrastructure such as warehouses, cold storage and transportation, so as to prevent distortion in the distribution of fresh fruits and vegetables. Both new regulations provided specific policies for several ports. As of 19 June 2012, all horticulture products should only enter through four ports -- the Belawan Sea Port in Medan, Makassar Sea Port, Tanjung Sea Port in Surabaya and Soekarno-Hatta Airport in Jakarta -- and should no longer enter through the Port of Jakarta (Tanjun Priok). The rationale for these new regulations was based on: (i) the identification of 19 cases threatening Indonesia's agriculture by the quarantine inspection and food security at Tanjung Priok; (ii) the limited ability of the quarantine and food safety laboratory to conduct examinations at Tanjung Priok; (iii) the absence of quarantine installations at entry ports; and (iv) inadequate number of quarantine inspectors in relation to the number of products to be examined. Indonesia indicated that it would notify and circulate the regulation as soon as possible.

2.194. In July 2012, New Zealand reported on fruitful discussions with Indonesia that had addressed and resolved some of the concerns related to the importation of NZ horticultural products. Indonesia should provide better clarity about its trade measures that may affect agricultural products through timely notifications under the relevant WTO agreements, and engage in consultations on these regulations with relevant WTO Members.

2.195. South Africa supported the request that regulations pertaining to the closure of the port be notified to the WTO. Indonesia's notification about the regulations in May 2012, however, did not provide a specific timeframe for Members to comment before the regulations were implemented on 19 June 2012. South Africa had nonetheless provided comments on the regulations, but received no response from Indonesia. Indonesia was also asked to clarify media reports on the reinstatement of imports through Jakarta harbour for products from some Members, and to elaborate on what basis the exemption was made. South Africa wished to discuss the matter with Indonesia bilaterally on an urgent basis, in light of the start of South Africa's export season.

2.196. The European Union shared the concerns raised by New Zealand and stated that despite the new regulations implemented by Indonesia to open up additional ports for imports, the situation had not improved significantly. Indonesia had granted a few countries preferential access to the main entry port of Jakarta based on country recognition, but had not granted such access to the European Union despite its high food safety and plant health standards. This was clearly a trade restrictive measure and it created a competitive disadvantage for EU exporters as bringing fruits and vegetables via other ports meant longer travel times, increasing costs and raised difficulties for the quality of the highly perishable products. Additionally, the measure had not been notified to the WTO. The European Union urged Indonesia to lift the unnecessarily trade restrictive measures and to implement measures in line with the SPS Agreement, including giving advance notification through the SPS notification system, allowing comments and allowing sufficient time for economic operators to adapt to any new measures.

2.197. Japan expressed interest on the measures related to the port closure put in place by Indonesia and stated its willingness to work closely with the Indonesian government on this issue. Australia shared New Zealand's concerns and thanked Indonesia for its constructive bilateral engagement on a range of SPS-related issues. Australia also encouraged Indonesia to notify all measures to the relevant WTO Committees. Korea also supported the concerns raised by New Zealand and welcomed Indonesia's recent decision to postpone the implementation of the new import regulation on horticultural products until September. Korea sought bilateral discussions with Indonesia to find a solution.

2.198. Indonesia clarified that the previous regulations of concern had been revoked and replaced by the decrees of the Ministry of Agriculture No 42/2012 and 43/2012, which had been notified to the WTO in July 2012 (G/SPS/N/IDN/53, G/SPS/N/IDN/54 and G/SPS/N/IDN/54/Corr.1). These concerned plant quarantine actions for the import of certain fresh fruits and/or fresh vegetables, and fresh plant products in the form of fresh bulb vegetables, into the territory of Indonesia effective 19 June 2012. Since the March 2012 SPS Committee meeting, Indonesia had conducted constructive bilateral and technical meetings in Jakarta with interested Members and had addressed most of the issues bilaterally, but remained open for further bilateral discussions.

2.199. In October 2012, China expressed concern with Indonesia's amended plant quarantine measures for the importation of fresh fruits and vegetables, which entered into force in June 2012 and was notified to the WTO in July 2012. The requirements included the accreditation of food safety and control systems and the designation of four ports - not including Jakarta's Tanjung Priok sea port - for entry of fruits and vegetables. The restriction on use of Indonesia's major trading ports would negatively impact trade with China, as 90% of Chinese fruit and vegetable exports entered Indonesia through Jakarta. China had a long history of trade in fruits and vegetables with Indonesia and its regulatory system monitored risks from fruit and vegetable exports. China questioned the scientific justification for the measure, as the pests highlighted by Indonesia did not occur in China. The international practice was for the importing country to first strengthen its inspection system at ports of entry to ensure the safety of imported food and vegetables, before implementing a process to accredit the food safety control systems of the exporting country. China had submitted a formal application for accreditation of its food safety control system and encouraged Indonesia to schedule an inspection visit to review China's quarantine systems.

2.200. The European Union echoed China's concern with Indonesia's restrictive quarantine measures for the import of fresh fruits and vegetables, and fresh plant products in the form of fresh bulbs. At the last WTO SPS Committee, Indonesia had stated that it had addressed most of the issues bilaterally and had provided access to the main entry port of Jakarta to a number of countries based on country recognition. Only a limited number of countries had been granted preferential access to Indonesia, while other countries could only use a limited number of entry

ports and remained excluded from using the main port in Jakarta. Despite bilateral discussions with Indonesia, EU exports remained unnecessarily blocked or exposed to higher costs, and Indonesia had provided no justification for these trade restrictive measures and the discriminatory preferential access. The European Union urged Indonesia to lift the unnecessarily trade restrictive measures and to implement measures in line with the SPS Agreement, including giving advance notification, so that comments of trading partners could be taken into account before trade disruptive measures were imposed.

2.201. Thailand echoed the concerns of China and the European Union, indicating that it was a major exporter of fruits and vegetables to Indonesia and that its exports had been negatively affected. Thailand requested Indonesia to remove the measure in order to minimize barriers and strengthen trade.

2.202. Indonesia recognized that the publication of its Ministry of Agriculture Regulation No 42/2012 and 43/2012 had raised concerns among some Members regarding the limitation of ports of entry for certain fresh fruits and vegetables, and fresh plant products in the form of fresh bulb vegetables. Indonesia had not closed its ports for the importation of horticulture products, but was seeking to prevent the spread of plant diseases and pests through effective management and regulation. Its largest sea port, Tanjung Priok, did not have appropriate facilities to implement quarantine measures such as the physical examination and detention of horticultural products. To prevent the spread of plant diseases and pests, and given the high volume of activity at Tanjung Priok, imports had been re-routed to other ports which had the requisite infrastructure. These ports were Belawan Sea Port in Medan, Makassar Sea Port, Tanjung Sea Port in Surabaya and Soekarno-Hatta International Airport in Jakarta. Indonesia was taking measures to improve the quarantine installation facility in Tanjung Priok, including by establishing an integrated system between the quarantine, customs and other relevant agencies; developing and improving existing infrastructure to accommodate imported commodities in the port area during quarantine inspections; and providing specifically for the entry and exit of containers. The first stage of this improvement programme should be finished by the end of 2013. These comprehensive steps were deemed necessary based on the results of a 2010-2011 assessment carried out by plant quarantine officials, which identified 15 exotic plant diseases that never previously existed in Indonesia. In most cases these plant diseases were found in horticulture products entering Tanjung Priok port. Indonesia remained concerned about the increasing number of interceptions that posed a serious threat to its plant and consumer protection.

2.7 Japan

2.7.1 Food safety

Prohibition of certain food additives (STC 307)

Raised by:	India
Supported by:	European Union
Dates raised:	October 2010 (G/SPS/R/61, paras. 20-21), March 2011 (G/SPS/R/62, paras. 62-64), June 2011 (G/SPS/R/63, paras. 38-39), October 2011 (G/SPS/R/64, paras. 61-62), March 2012 (G/SPS/R/66, paras. 42-43)
Relevant document(s):	G/SPS/N/JPN/255
Solution:	
Status:	Not reported
Date reported as resolved:	

2.203. In October 2010, India expressed concerns over Japan's proposed withdrawal of 80 food additives in May 2011, which had been notified to the WTO in July (G/SPS/N/JPN/255). The decision to prohibit the use of these additives was apparently based on a survey and the analysis of public comments. The survey considered the sale, manufacturing, import, processing, use, storage and display of such substances in Japan's market. India was concerned that the requirements of Article 2 of the SPS Agreement had not been fully considered, as the survey did not provide any indications that the additives were hazardous to human health, nor had a risk assessment been undertaken by the Japanese authorities, and international standards had not been followed. Of the 80 food additives to be withdrawn, at least 33 substances were allowed in

other countries, including Korea and the United States, in line with Codex or country specific standards. India urged Japan to follow the provisions of the SPS Agreement before deciding to prohibit the use of the food additives, and suggested that Codex could be requested to examine the risks associated with those food additives.

2.204. Japan recalled that according to the revision of the Japanese Food Sanitation Law in 1995, natural additives became subject to prior approval by the Ministry of Health, Labour and Welfare. Therefore, whether natural or synthetic, no additive could be used unless it was approved by the Ministry. The concept of "existing food additives" was established in 1995 and referred to substances that were derived from natural origin and that had been used before 1995 without prior approval. However, their safety had not been verified or examined based on a safety assessment, and Japan would be systematically verifying the safety of existing food additives. Japan considered that it was justifiable to eliminate those substances for which there was no actual use or distribution in Japan, and hence would not result in any restriction of trade. Japan had previously directly contacted embassies and trade groups in response to requests received on this issue. In 2009, Japan had carried out a survey on 125 substances and, based on the survey results, had prohibited these 80 additives since they were no longer in use in the domestic market. Should Members nevertheless have further comments on this notification, these should be submitted by 17 November 2010 at the latest.

2.205. In March 2011, India recalled its concerns about 31 of the 80 food additives that Japan had notified as no longer being distributed in Japan. In March 2011, the original list had been reduced to 50, however, India still had concerns regarding 18 food additives to be withdrawn from the Japanese market on 18 May 2011.

2.206. The European Union also requested clarification on a number of food additives planned to be withdrawn and which, according to the webpage of the Japanese Ministry of Health, still remained on the list. The European Union would continue its bilateral discussions with Japan to address its outstanding concerns.

2.207. Japan reiterated that it was carrying out a safety verification of existing food additives, as some were being used without a risk assessment. Japan had notified the WTO in July 2010 (G/SPS/N/JPN/255) and had received several comments. At the October 2010 meeting, Japan had asked India to submit evidence that certain substances were in use in Japan so as to change the status of those food additives. However, India's comments had been received after the comment period had lapsed. Japan would publish a list of 55 substances for withdrawal from the Japanese market in the official Gazette, in May 2011.

2.208. In June 2011, India remained concerned that food additives were being prohibited on the basis that they were not in use in Japan, without a risk assessment. Some of the food additives that were restricted in Japan were in use in other countries, and such a measure to prohibit these additives without any scientific basis violated the SPS Agreement. India requested that Japan provide a scientific justification for this decision, and that it permit the use of these additives whilst the issue was under review.

2.209. Japan stated that a number of substances on the list of existing food additives had been used without a scientifically-based safety assessment. Since 1996, Japan had been systematically carrying out safety verifications of the listed substances to establish requirements based on science. There was no indication that some of the food additives on the list were actually in use in the Japanese market, and Japan intended to delist these substances. However, this was to facilitate the safety verification process, not to restrict international trade. As of 6 May 2011, 55 substances had been withdrawn from the list of existing food additives. Japan encouraged India to provide information documenting the use of these substances in the Japanese market before Japan finalized the revision process. Many Members had commented on G/SPS/N/JPN/255 at the October 2010 meeting, and Japan responded to India's comments in November 2010. However, India had submitted its comments four months after the conclusion of the notification period, so Japan would use this information in the future.

2.210. In October 2011, India recalled its concern. In light of Japan's indication that it was willing to update the list of food additives, if India provided information that these items were actually in use in the Japanese market, India was working to get the necessary information and provide the

relevant documents to Japan as soon as possible. In the meantime, India urged Japan to temporarily permit the use of these additives while Japan conducted the risk assessments.

2.211. Japan reiterated that as of 6 May 2011, 55 substances had been withdrawn from the list of existing food additives, as the list of food additives was up-dated by removing those that were no longer in use in the Japanese market. However, in accordance with the Food and Sanitation Act, if an application were filed that provided relevant evidence that any of the withdrawn substances were still in circulation in the Japanese market, the authorities would update the list.

2.212. In March 2012, India indicated that the list of food additives being delisted by Japan included eight substances currently used by Indian food manufacturers. India remained concerned that food additives were being prohibited on the basis that they were not in use in Japan, despite the fact that they did not constitute health risks. This hindered exports of food containing these substances to Japan without sufficient justification. India could provide a list of Members who permitted these substances. Clarification was also sought regarding the database used by Japan in prohibiting these products, and the process for updating the list.

2.213. Japan explained that it had been waiting for the complete application from India since June 2011. India should apply for approval of the specific substances of interest to its exporters, and Japan was willing to explain the detailed application process in bilateral meetings.

Restrictions on shrimp due to anti-oxidant residues (STC 342)

Raised by:	India
Supported by:	
Dates raised:	October 2012 (G/SPS/R/69, paras. 24-25)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.214. In October 2012, India expressed concern regarding Japan's introduction of mandatory testing for residue levels of ethoxyquin, an anti-oxidant commonly used as a preservative in feed for aquatic animals. In 2005, Japan had notified a measure based on its Food Sanitation Act that regulated a positive list of agricultural chemicals and additives in food. This defined permissible residue levels of ethoxyquin at 0.01 ppm for some products, but did not include MRLs in shrimp. Japan's new MRLs for shrimp was too stringent compared to the Codex MRL of 3 ppm, was not based on scientific evidence and did not take into account the objective of minimizing negative trade effects.

2.215. Japan observed that no Codex standard for ethoxyquin in shrimp had existed at the time it changed its legislation. As India had not requested the establishment of a specific MRL for this product, the default tolerance level of 0.01 ppm applied. A risk assessment for ethoxyquin in shrimp was currently underway, so the default level was applied in the meantime. Japan remained committed to continuing consultations with India to resolve this matter.

2.7.2 Animal Health

General import restrictions due to BSE (STC 193)

2.216. See paragraphs 2.357. 2.390.

Restrictions related to FMD (STC 332)

Raised by:	Argentina
Supported by:	
Dates raised:	July 2012 (G/SPS/R/67, paras. 16-17)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.217. In July 2012, Argentina expressed concerns about Japan's undue delay in responding to Argentina's requests for recognition as an FMD-free area without vaccination, and Japan's failure to open its market to deboned fresh and mature beef meat. Argentina's first request dated to April 2003. After no response, in March 2004, Argentina submitted to Japan's Ministry of Agriculture, Fishery and Forestry (MAFF) a specific report concerning the FMD-free area without vaccination and a technical proposal for risk mitigation in the import of meat from FMD-free areas with vaccination. Japan refused to address both subjects at the same time and instead proposed to first focus on the recognition of the FMD-free area without vaccination and afterwards discuss the exportation from the FMD-free area with vaccination. In June 2005, Argentina sent a technical mission to Japan to formally request recognition as an FMD-free area in line with Article 6 of the SPS Agreement. On that occasion, the MAFF authorities stated: (i) the need to conduct a technical mission of experts from the National Institute of Animal Health to Argentina, which took place in December 2007, and (ii) that Argentina had to reply to a lengthy questionnaire, which was only received after more than three years (in December 2008) and which, among other things, proposed to follow eight steps to advance the procedure (including that of carrying out a risk analysis for both areas). In January 2010, Argentina had replied to the questionnaire for the risk analysis of the FMD-free area without vaccination, submitting additional technical information. Since then, no replies had been received from Japan to enquiries, meetings and notes submitted on several occasions during 2010 and 2011. Argentina was officially recognized by the OIE as a country free of FMD with three areas: one area FMD-free without vaccination (Patagonia) and two areas FMD-free with vaccination (north region and the border region). In spite of this fact and despite the intense efforts undertaken for almost ten years, Japan had not yet formally recognized these areas. Bearing this in mind and considering Articles 2.2, 5.1, 3, 6 and 8, among other provisions of the SPS Agreement, Argentina requested that Japan conclude without undue delay the on-going proceedings in line with the international standards.

2.218. Japan responded that an additional questionnaire would soon be sent to Argentina to request further information necessary for the development of a risk assessment. Japan's SPS measures were based on a risk assessment taking into account the OIE Terrestrial Animal Health Code and the disease-free status officially recognized by the OIE. It was important to take fully into account the available scientific evidence and to ensure transparency in the process of risk assessment, and Japan would continue to work closely with Argentina to resolve this issue.

2.8 Korea

2.8.1 Animal Health

General import restrictions due to BSE (STC 193)

2.219. See paragraphs 2.357. 2.390.

BSE-related measures on beef products (STC 247)

Raised by:	Canada
Supported by:	European Union
Dates raised:	February 2007 (G/SPS/R/44, paras. 15-18)
Relevant document(s):	Raised orally; WT/DS/391/R
Solution:	Mutually agreed solution notified on 19 June 2012. Panel report circulated to Members on 3 July 2012.
Status:	Resolved
Date reported as resolved:	19 June 2012

2.220. In February 2007, Canada recalled that in response to finding a case of BSE in Canada in May 2003, Korea had implemented a ban on imports of beef from Canada. Canada had taken effective measures to control the risk of BSE, often exceeding OIE standards. Furthermore, the OIE Terrestrial Animal Health Code indicated that no restrictions should be applied on boneless beef from animals aged 30 months or less, regardless of the BSE status of the exporting country. More than 30 trading partners had resumed importing Canadian beef, but Korea continued to block imports. In January 2007, Canada had, under Article 5.8 of the SPS Agreement, formally requested Korea to provide a justification for this measure. Canada was disappointed in Korea's response, which was to request additional information. On the basis of the information already provided to Korea, other trading partners had assessed risks and concluded that Canadian beef was safe to import. The information has also been sufficient for the OIE Central Bureau to determine Canada's BSE status. Canada requested Korea to lift its restrictions and grant access to Canadian beef according to the OIE guidelines.

2.221. The European Communities indicated that they shared Canada's concerns and were facing similar problems with Korea. This was not a new issue. The European Communities strongly urged all Members to apply the OIE standards, especially with respect to BSE.

2.222. Korea stated that import restrictions had been imposed on certain products due to the BSE outbreak in Canada. Korea had taken the necessary steps to permit the resumption of beef trade. It was clear that under the terms of the SPS Agreement, Korea could assess the risk from each Member individually. The risk analysis on Canadian meat had been delayed when new BSE cases were reported in January 2006. Korea was concerned that there might be a problem related to the effectiveness of the feed ban measures, and the continued appearance of cases raised questions that had not been clearly answered by Canada. However, in accordance with Article 5, Korea would continue to discuss this matter with Canada.

2.223. Canada stressed that the OIE Code allowed for trade in boneless beef from animals below 30 months regardless of the BSE status of the exporting country. The few cases of BSE in cattle born after the feed ban had no epidemiological significance. Although Canada was willing to provide any relevant information required, it had been unaware that there were any outstanding requests for information.

2.224. In accordance with the provisions of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Canada requested consultations with Korea on 9 April 2009 (WT/DS/391/1). The Dispute Settlement Body (DSB) established a panel on 31 August 2009. Canada and Korea notified the DSB that they had reached a mutually agreed solution on 19 June 2012. The panel report (WT/DS391/R) was circulated to Members on 3 July 2012, reporting on the solution reached by the parties.

2.9 Malaysia

2.9.1 Food safety

Import restrictions on pork and pork products (STC 323)

Raised by:	European Union
Supported by:	Canada, United States of America
Dates raised:	October 2011 (G/SPS/R/64, paras. 32-35), October 2012 (G/SPS/R/69, paras. 55-56)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.225. In October 2011, the European Union indicated that it had concerns with Malaysia's import restrictions on pork and pork products, imposed 1 July 2011. In bilateral discussions, however, the European Union had received guarantees that the restrictions would shortly be lifted. The European Union would continue to work closely with Malaysia to ensure that EU exports could resume in line with WTO obligations.

2.226. Canada shared the EU concerns as its pork and pork product exports had also been banned since 1 July 2011 without notification. Malaysia had not advised Canada about the revision to its import requirements or the ban, and Canada had received conflicting information from Malaysia with respect to import requirements for pork. Canada encouraged Malaysia to base import conditions on science, and consider a systems approval approach for pork imports, rather than a plant-by-plant approval.

2.227. The United States also expressed concerns that the new import requirements had been imposed without valid scientific evidence. The United States had been told in June 2011 that it could continue to export pork and pork products if it submitted an establishment questionnaire by 1 July 2011; however, imports had been stopped. The United States would continue to work with Malaysia to facilitate an audit of US food safety systems, but expected a successful audit that would allow all federally inspected pork establishments to be eligible to export to Malaysia.

2.228. Malaysia observed that bilateral consultations on this issue were on-going with the affected Members and it hoped to resolve the issue as soon as possible.

2.229. In October 2012, the European Union indicated that it still had concerns with Malaysia's import restrictions on pork and pork products. In recent bilateral discussions, Malaysia had indicated that it had addressed some of the outstanding EU concerns and would continue to follow-up closely with the European Union to find a rapid and durable solution. The European Union welcomed the positive signal and would continue to engage in constructive dialogue with Malaysia, with a view to rapidly resolving the issue through a transparent import process in Malaysia that guaranteed sustainable trade.

2.230. Malaysia reported that bilateral discussions were on-going and that it hoped to find a mutual solution to the matter as soon as possible.

2.10 Russian Federation

2.10.1 Animal Health

Import ban on live animals from the EU (STC 338)

Raised by:	European Union
Supported by:	
Dates raised:	October 2012 (G/SPS/R/69, paras. 15-16)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.231. In October 2012, the European Union raised a concern regarding measures taken by Russia to ban imports of live non-breeding pigs and ruminants from the whole EU territory and breeding pigs from part of the European Union due to alleged *Brucella* findings. Russia had not provided scientific evidence to justify the ban, nor information on the proportionality of the measure nor the negative effects the ban sought to limit. Russia had identified only two cases of concern related to live animals, which the European Union deemed insufficient to provide justification for the complete ban. Russia had not provided a risk assessment warranting a total ban on imports, and the European Union asked Russia to lift the import ban on live breeding and non-breeding pigs.

2.232. Russia asserted that joint inspections by Russian and Belarus-Kazakhstan-Russia Customs Union experts found numerous and repeated violations in animal surveillance, and the ban on live animals from the European Union was preceded by a risk assessment. Following negotiations, the European Union had agreed to take additional measures to ensure the safety of animals and animal products intended for the Russian market. The import ban was necessary to protect against animal diseases and unsafe animal products, but Russia was ready for further dialogue with the European Union.

Russia's listing of export establishments (STC 341)

Raised by:	European Union
Supported by:	Morocco, Norway, United States of America
Dates raised:	October 2012 (G/SPS/R/69, paras. 21-23)
Relevant document(s):	Customs Union decision 830, Customs Union decision 834
Solution:	
Status:	Not reported
Date reported as resolved:	

2.233. In October 2012, the European Union raised concerns that Russia had systematically refused the guarantees provided by EU member States for the listing of new establishments interested in exporting to Russia. No scientific justification was provided nor explanation given as to why member State guarantees, which were relied upon in the past, were no longer trusted. Further, Russia had increased restrictions through the temporary suspension of imports from certain EU establishments without scientific justification. Restrictions were introduced on casings establishments despite the low risk profile of this commodity, as recognized by the OIE. Similar unfounded restrictions had been introduced on dairy and meat product establishments following a regional outbreak of Noro virus, apparently based on the assumption that the outbreak was due to inadequate veterinary supervision, without any real consideration of the risk at stake or the epidemiological link. The European Union requested Russia to lift its restrictions and facilitate the listing of establishments, and to take only proportionate measures if and when there was a scientific basis.

2.234. Morocco, Norway and the United States shared similar concerns regarding the listing of establishments. Norway specifically was concerned about the listing of companies that intended to export to Russia, as well as the process of reauthorizing already inspected companies which were temporarily not allowed to export to Russia. The United States expressed concerns with Russia maintaining registry requirements for certain products while it had agreed in its accession process and Customs Union decision 830 to remove these requirements. Morocco shared similar concerns, and requested Russia to provide these new listings to the concerned countries in order to avoid economic repercussions.

2.235. Russia affirmed that it intended to comply with all the SPS-related commitments undertaken during its accession. It sought to implement its obligations under the WTO without disrupting or impairing its trade with former trading partners. The customs union regulation on joint inspection, Customs Union decision 834, considered the audit of foreign surveillance systems to establish their equivalence as the main mechanism to ensure the safety of imports. This was the same principle used by the European Union. Those establishments that had previously had the right to export to Russia could continue to do so, and imports from others would be permitted following a successful audit. The issue with regard to casings was that some products certified as coming from the European Union appeared to be sourced elsewhere. Russia was open to further discuss these matters with the European Union.

2.11 South Africa

2.11.1 Animal Health

Import restrictions on fresh pork meat and beef (STC 287)

Raised by:	Brazil
Supported by:	
Dates raised:	October 2009 (G/SPS/R/56, paras. 16-17), October 2011 (G/SPS/R/64, paras. 94-95), March 2012 (G/SPS/R/66, paras. 59-60), July 2012 (G/SPS/R/67, paras. 36-37)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.236. In October 2009, Brazil reported that since 2006, Brazil had been exchanging information with South African authorities regarding restrictions on pork and beef products from Brazil. Three rounds of questions had been asked, and three sanitary negotiating missions had been sent to South Africa. South Africa had not provided any final results of its risk analysis on beef and pork. Brazil requested more conclusive information on the risk analysis processes that had been carried out, since Brazil fulfilled the requirements established by the OIE.

2.237. South Africa confirmed that a number of interactions had taken place with regards to the import of pork and beef into South Africa, most recently in July 2009. However, there were still some issues that required clarification with regards to the import of pork. The import of matured de-boned beef should be approved pending agreement on certificates.

2.238. In October 2011, Brazil expressed concerns that since 2005, South Africa had suspended imports of beef and pork meat from Brazil due to a foot-and-mouth disease outbreak in the country. Numerous attempts to reopen the South African market to Brazilian pork had been blocked by repeated unnecessary requests for additional information. Brazil had also sent at least four missions to South Africa and had invited South Africa to hold bilateral meetings on the margins of SPS Committee meetings. Since 2006, Brazil had provided information on the country's sanitary status and responded to all questions from South Africa. In February 2010, intense negotiations had finally resulted in the authorization of exports of Brazilian bovine meat to South Africa, but not Brazilian pork meat. Although bovine and swine herds could be affected by FMD, the 2005 outbreak had affected only the bovine herd, and South Africa's delay in accepting Brazilian pork meat could not be scientifically justified. Brazil requested that South Africa make a final, scientifically sound decision and promptly allow the importation of Brazilian pork meat.

2.239. South Africa affirmed that it was committed to resolve the problem soon, as demonstrated by the technical cooperation between South African and Brazilian officials. South Africa had experienced several devastating outbreaks of diseases in the pig population, including classical swine fever and porcine reproductive and respiratory syndrome (PRSS), which had adversely affected South African pig production and cost close to a million dollars to eradicate. FMD was not the only disease of concern when importing pork meat. Although South Africa generally applied the concept of safe commodities as determined by the OIE, the OIE guidelines did not address all of the diseases of concern. South Africa continued to seek advice from the OIE on how to proceed regarding certain imports, considering the health status of its pig population. In particular, the OIE did not have guidelines for the importation of meat that differentiated between pathogenic and apathogenic diseases. South Africa ultimately aimed to develop a health certificate for the importation of pork which would ensure protection of its swine population.

2.240. In March 2012, Brazil recalled that South Africa banned Brazilian swine and bovine meat since 2005, and after intense negotiations and four technical missions, had authorized imports of bovine meat in February 2010. Although Brazil had answered all questions in relation to the control of swine disease, the repeated questions from South Africa had become a major and unnecessary obstacle to trade. The ban was unjustified as the FMD status of Brazil was higher than that of South Africa, and Brazil requested South Africa to promptly adapt its measures to the requirements foreseen in the SPS Agreement, so that exports of the affected products could resume soon.

2.241. South Africa stated that the concerns raised by Brazil were important to both countries and that it was committed to solve the issue. Since 2005, South Africa had experienced outbreaks of devastating animal diseases in the pig population, which were costly to eradicate. Porcine, reproductive and respiratory syndrome and classical swine fever had been eradicated from South Africa, which would seek advice from the OIE on how to proceed on certain imports while continuing to ensure the protection of its pig herd health. South Africa was in the final stages of developing an effective health certificate for the import of pork, and remained willing to continue bilateral discussions with Brazil and other interested countries.

2.242. In July 2012, Brazil noted that South Africa was the only country that still maintained an embargo against Brazilian products even though South Africa itself had been reporting cases of FMD in its territory, and Brazil's sanitary status in the OIE was higher than that of South Africa. The ban was unjustified and excessive. Since 2010, the embargo had been enforced mainly against Brazilian swine meat, while authorizing the import of some cuts of bovine meat, a position that was highly questionable from a scientific perspective as the 2005 outbreak only affected the Brazilian bovine herd. In 2010, South Africa had sent Brazil questions about diseases other than FMD. The requested information exceeded the necessary data requirements and seemed intended to delay the lifting of the embargo. The Brazilian government had engaged in consultations with South Africa and would evaluate the results of these consultations and decide on future steps. Brazil sought a negotiated outcome within the scope of the SPS Committee.

2.243. South Africa responded that the concern was very important to both countries and that it was committed to finding a solution.

2.12 Chinese Taipei

2.12.1 Food safety

Restrictions on ractopamine in beef and pork (STC 275)

Raised by:	United States of America
Supported by:	Brazil, Canada, Costa Rica, Ecuador, Peru
Dates raised:	October 2008 (G/SPS/R/53, paras. 8-12), October 2009 (G/SPS/R/56, paras. 141-147), March 2011 (G/SPS/R/62, paras. 51-55), June 2011 (G/SPS/R/63, paras. 53-59), October 2011 (G/SPS/R/64, paras. 63-66), March 2012 (G/SPS/R/66, paras. 32-35), July 2012 (G/SPS/R/67, para. 14)
Relevant document(s):	G/SPS/N/TPKM/114, G/SPS/GEN/1182
Solution:	
Status:	Not reported
Date reported as resolved:	

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

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

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

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

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

2.249. In October 2009, Brazil noted that extensive discussions on this matter occurred during the last two sessions of the Codex Alimentarius Commission and at the 18th session of the Codex Committee on Residues of Veterinary Drugs in Foods. Despite the evidence presented by JECFA, an MRL had not been adopted by the Codex. Brazil was concerned about the repeated postponement of a decision in spite of the existence of strong scientific evidence in favour of the adoption of this MRL. Since an MRL was needed in order to facilitate international trade, Brazil hoped that a decision would be made at the next meeting of the Codex Commission.

2.250. Canada noted that Canadian exporters had also experienced trade difficulties in several markets due to the absence of an MRL for ractopamine. In 2005 Health Canada approved the use of ractopamine in swine feed and established an MRL for ractopamine in pork. Canada supported the adoption by Codex of the proposed MRLs for ractopamine and was pleased when, in September 2007, the Codex Committee on Residues of Veterinary Drugs in Foods recommended the adoption of ractopamine MRLs at step 8. Canada was disappointed that this was not adopted at the 2009 Codex Commission meeting and expressed hope that it would be adopted at the 2010 meeting.

2.251. The United States stated that adoption of international standards for ractopamine should be an important priority for all WTO Members. Years of scientific evidence proved that ractopamine could be used safely. Ractopamine had been approved by over 25 countries and was currently at Step 8 in the Codex process. Some Members, however, imposed ractopamine bans without sufficient scientific evidence to support them. Codex had not adopted the draft MRLs at the 2009 Commission meeting because of a request from a major trading partner that one further scientific review be done by JECFA. The United States urged that trading partner to provide JECFA with the necessary information so that this study could be completed, and expressed the hope that the Codex Commission would move forward with adoption of the standard once that study was complete.

2.252. The European Communities noted that last year EFSA, which was responsible for risk assessment, gave a standard opinion regarding the harmfulness of this substance. China had also conducted a study on the effect of ractopamine on the tissue of pigs. The Codex Commission decided that JECFA should evaluate the Chinese studies before coming to a decision with respect to the MRL for ractopamine.

2.253. China noted his authorities' commitment to ensuring that the international standard on ractopamine was of the highest quality. China would continue to actively participate in the Codex standard development process by carrying out experiments and sharing data with JECFA. Norway supported the interventions of the European Communities and China, stressing the need for JECFA to evaluate the last data submitted by China before coming to a final conclusion.

2.254. Australia agreed with the interventions of Brazil, Canada and the United States on this issue. Codex had made a risk management decision based on a risk assessment of the available data, and Australia supported the adoption of the draft proposed MRL for ractopamine.

2.255. Codex noted that JECFA had conducted an evaluation in accordance with the procedure in place for veterinary drugs. As noted by Australia, the risk management decision made by the Committee on Residues of Veterinary Drugs was then forwarded to the Codex Commission, but at the Commission there was no consensus. Rather, at the Commission session delegates referred to further studies and scientific data on the matter. It was agreed that JECFA would review the data that it had not previously reviewed. Two meetings of JECFA were scheduled for 2010 and they would make every effort to have the outcome of the review of this data available for the next session of the Commission in July 2010.

2.256. In March 2011, the United States stated that in January 2011, Chinese Taipei had ordered the cessation of the sale of US beef in grocery stores when two shipments of US beef had tested positive for ractopamine. Ractopamine was approved for use in 26 countries and in 2007 Chinese Taipei had determined that, based on scientific evidence, ractopamine was safe for use in cattle and swine. However, Chinese Taipei's notification of the implementation of MRLs, consistent with the draft Codex standard, had been delayed by domestic opposition and had resulted in significant trade barriers to US exports.

2.257. Canada indicated that it had already raised its concerns with Chinese Taipei bilaterally and on the margins of Committee meetings. While Codex had not yet adopted MRLs for ractopamine, Canada believed that the scientific work conducted by Codex and the Joint FAO/WHO Export Committee on Food Additives fully supported their adoption. Hence, Canada requested that Chinese Taipei reconsider its current prohibition.

2.258. Chinese Taipei stated that the use of ractopamine in food-producing animals was forbidden by many Members. Although Chinese Taipei had considered establishing MRLs for ractopamine, the process had been suspended due to criticism including from the scientific community. The 33rd Session of the Codex Alimentarius Commission had also been unable to reach a decision and Chinese Taipei was therefore of the opinion that further scientific research and evaluation were needed.

2.259. WHO reported that the compilation of scientific information on ractopamine was available on the JEFCA website and that the conclusions were clear. The only outstanding issue related to consumption of and exposure to ractopamine from lung tissue. At the last Codex Committee on

Residues of Veterinary Drugs several participants had requested further clarification from China concerning the variability of concentration in lung tissue.

2.260. The European Union, Norway and Switzerland stated that there were no Codex MRLs for ractopamine and that in the absence of international standards, they did not accept imported products treated with ractopamine.

2.261. In June 2011, the United States reiterated that ractopamine was approved for use in 26 countries and that Chinese Taipei's 2007 assessment concluded it was safe for use in cattle and swine. That same year, Chinese Taipei notified in G/SPS/N/TPKM/114 that it intended to implement MRLs for ractopamine use in cattle and pigs consistent with the draft Codex MRLs. However, staunch opposition of pork producers to foreign pork being imported resulted in delays in the implementation of the draft MRLs. The United States remained concerned about these actions because there was no scientific basis for questioning the safety of the use of ractopamine within the MRLs set by the United States, Canada, Japan, Korea and many other countries. Chinese Taipei's failure to ensure that its measures were science-based sent confusing signals to its own public on food safety issues. The failure to adopt ractopamine MRLs resulted in significant barriers to trade and would ultimately contribute to higher prices for consumers. In order to avoid further unjustified restrictions, Chinese Taipei should immediately implement the 10 ppb MRL that it notified in August 2007. The United States encouraged Chinese Taipei and all Members to ensure measures were based on science, and not to use media to unnecessarily scare consumers in order to maintain trade barriers.

2.262. Canada shared the concerns of the United States regarding the lack of scientific justification for the prohibition of ractopamine in pork and beef, and the creation of considerable uncertainty for beef and pork exporters. These concerns had been discussed bilaterally with Chinese Taipei, most recently at the 13 June 2011 meeting of the Canada-Chinese Taipei Agriculture Working Group in Ottawa. Based on a comprehensive risk assessment, Canada had approved the use of ractopamine as an ingredient in feed for pigs in 2005 and for cattle in 2007; administrative MRLs for ractopamine in edible swine and cattle tissues were also established. The scientific assessments conducted by Codex and JECFA supported the adoption of MRLs for ractopamine. Given the extensive scientific evidence, Canada requested Chinese Taipei to reconsider its current prohibition.

2.263. Both Brazil and Costa Rica expressed systemic concerns on the prohibition of ractopamine, including the lack of a scientific basis for such prohibitions. They were also concerned that the MRLs for ractopamine had not yet been adopted by Codex.

2.264. The European Union highlighted that as there was no international standard for ractopamine, every Member was free to adopt its own national measures as long as they were in line with the SPS Agreement. The European Union did not allow the use of ractopamine, nor any similar substances, and did not accept imports of products from animals treated with ractopamine. In the interest of protecting the health of its consumers, the European Union maintained a preference for meat and meat products not treated by substances such as ractopamine, a fact which was widely known by those countries seeking to export meat and meat products to the European Union.

2.265. China and Norway supported the views of the European Union. China stated that more scientific work was needed to address the concerns of Members, and that a consensus must be reached before international standards were adopted. All Members had the right to adopt SPS measures as long as a risk assessment had been completed.

2.266. Switzerland stated that as a general rule it only authorized the administration of veterinary drugs to animals for therapeutic purposes; other chemical substances with no vital benefits were strictly regulated, and growth promoters like ractopamine were prohibited. The current Codex debate clearly showed that no scientific consensus existed regarding the safety of ractopamine. The lack of certainty in the risk assessment, as identified by EFSA in April 2009, combined with questions on risk management, led Switzerland to oppose the adoption of Codex MRLs for ractopamine.

2.267. Chinese Taipei responded that it had first prohibited ractopamine in 2006, and no MRL had been established. According to its legislation, therefore, any detection of ractopamine in meat products constituted a breach of the law. While it had notified in 2007 that it was considering the establishment of an MRL for ractopamine, the draft proposal had attracted considerable criticism and questioning from the scientific community, consumer groups, and other interested parties. For these reasons, Chinese Taipei concluded that it must continue to investigate the adverse effects of this drug on human health, while increasing its efforts regarding risk communication.

2.268. In October 2011, the United States restated the concerns raised during the 2011 June meeting. The United States encouraged Chinese Taipei and all Members to ensure that measures were based on science, and not to use media to unnecessarily scare consumers in order to maintain trade barriers. Canada shared the concerns of the United States and restated the observations it had presented during the 2011 June meeting.

2.269. Brazil, Costa Rica, Ecuador and Peru expressed systemic concerns on the prohibition of ractopamine, including the lack of a scientific basis for such prohibitions, and were also concerned that the MRLs for ractopamine had not yet been adopted by Codex. Brazil emphasized that ractopamine had been proven safe and effective as a veterinary drug that increased feed efficiency, had undergone human and animal safety studies and been approved in 26 countries.

2.270. Chinese Taipei responded that it was continuing to investigate the adverse effects of this drug on human health, as it had fully explained at previous SPS Committee meetings, while increasing its efforts regarding risk communication.

2.271. In March 2012, the United States restated the concerns raised during the 2011 June and October meetings. It concluded urging Chinese Taipei to immediately implement the MRL it had notified in 2007, and to, along with all Members, ensure that measures were based on science.

2.272. Canada shared the US concerns. Based on a comprehensive risk assessment, Canada had approved the use of ractopamine in animal production. Although Codex had not yet adopted MRLs for ractopamine, Canada was of the view that the scientific work conducted by JECFA fully supported their adoption. Canada was encouraged by Chinese Taipei's establishment of a cross-departmental task force in early 2012 to consult with stakeholders and to provide expert scientific opinion on ractopamine. To avoid further unnecessary trade disruptions, Canada requested that Chinese Taipei proceed as soon as possible with the adoption of MRLs for ractopamine for meat and meat products as notified to the Committee in 2007.

2.273. Brazil highlighted its concern that MRLs for ractopamine had not yet been adopted by Codex, despite the technical justifications available regarding the use of ractopamine.

2.274. Chinese Taipei took note of the remarks, which it would convey to its competent authorities.

2.275. In July 2012, Codex highlighted information from various Codex committees (G/SPS/GEN/1182) and reported that the 35th session of the Codex Alimentarius Commission adopted a number of standards and related texts, including the MRL for ractopamine, which was exceptionally adopted by vote as opposed to the usual adoption by consensus.

MRLs for roasted and powdered coffee (STC 334)

Raised by:	India
Supported by:	Colombia, European Union
Dates raised:	July 2012 (G/SPS/R/67, paras. 20-23)
Relevant document(s):	G/SPS/N/TPKM/255, G/SPS/N/TPKM/255/Add.1
Solution:	Concern resolved following the publication by Chinese Taipei of a modified draft regulation finalizing the tolerance for Ochratoxin A in roasted and powdered coffee at 5 parts per billion.
Status:	Resolved
Date reported as resolved:	18 October 2012

2.276. In July 2012, India stated that Chinese Taipei's Food and Drug Administration had notified a draft regulation on tolerance levels of mycotoxins in food which would amend the tolerance level for ochratoxin A in coffee (G/SPS/N/TPKM/255). The draft set an MRL of 5 ppb for mycotoxin in roasted coffee powder and instant coffee. Codex had not prescribed limits for ochratoxin A in coffee, and only the European Union had notified MRLs for ochratoxin A at 5 ppb and for soluble coffee at 10 ppb. The uniform limit for roasted and ground coffee, as well as soluble coffee, set by Chinese Taipei seemed arbitrary and not based on scientific evidence, as during the manufacture of soluble coffee ochratoxin A was concentrated, leading to a higher presence of this compound than in ground coffee. Chinese Taipei's requirements would adversely affect India's growing exports of coffee. India urged Chinese Taipei's competent authority to take into consideration India's comments when finalizing the measure on tolerances of mycotoxins in foods.

2.277. The European Union shared the concerns of India, and had submitted comments on the SPS notification. The new levels proposed for ochratoxin A in soluble coffee would need to be scientifically justified. Chinese Taipei was encouraged to notify again the new amended measure to the SPS Committee so that all trading partners could comment on the amended proposed level.

2.278. Colombia requested Chinese Taipei to provide the technical basis on which the limits for ochratoxin A had been set, and recalled that Codex had not yet established limits for this toxin.

2.279. Chinese Taipei stated that in recent years consumption of coffee had increased and that the tropical climate of Chinese Taipei favoured the growth of mould on this product. The government had carried out a local background survey and a risk assessment on ochratoxin A in coffee, taking into account the measures of other countries, before drafting the proposed requirement. The draft standard was notified to the WTO on 19 April 2012, with a deadline for comments of 11 June 2012. Nonetheless, Chinese Taipei would still accept further comments on the draft, and encouraged India to submit its comments in writing to the competent authorities.

2.280. In October 2012, the European Union reported that its specific trade concern on Chinese Taipei's MRLs for Roasted and Powdered Coffee (No. 334) had been resolved following the publication by Chinese Taipei of a modified draft regulation, notified in G/SPS/N/TPKM/255/Add.1. The European Union thanked Chinese Taipei for its co-operation in resolving the concern. Chinese Taipei expressed appreciation for the EU intervention and the comments submitted by Members. Chinese Taipei had finalized the tolerance for Ochratoxin A in roasted and powdered coffee at 5 parts per billion (ppb). The standard had been in effect since 28 August 2012 and the WTO had been notified accordingly. Chinese Taipei wished to continue to collaborate with Members on SPS issues. The Chair congratulated the European Union and Chinese Taipei on the resolution of the concern and thanked them for informing the Committee. Members were encouraged to inform the SPS Committee on the resolution of trade concerns.

2.13 Thailand

2.13.1 Plant Health

Restrictions on table grapes, apples and pears (STC 326)

Raised by:	South Africa
Supported by:	Senegal
Dates raised:	October 2011 (G/SPS/R/64, paras. 42-43), October 2012 (G/SPS/R/69, paras. 42-44)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.281. In October 2011, South Africa indicated that its exports of fresh fruit, particularly table grapes, apples and pears, had been stopped as a result of Thailand's new Plant Quarantine Act No. 3. The Act prohibited imports of certain fresh produce until a pest risk analysis (PRA) was completed. An interim provision allowed the entry of products imported to Thailand prior to the

prohibition, pending completion of the PRA. South Africa had sought to invoke this provision, which allowed for a case-by-case approval, and had proposed certain minimum requirements until the PRA was completed. South Africa urged Thailand to apply the interim arrangement to its exports, and to conclude the PRA so that trade in the affected products could resume.

2.282. Thailand confirmed that the importation of certain fresh fruit and plants was prohibited until the national plant protection organization (NPPO) had completed a PRA. South Africa had been granted an interim exemption for its corn exports, but had not requested exemptions for any other fresh produce within the set deadline. Thailand suggested that the NPPOs of both countries engage directly to find a mutually satisfactory solution to the issue.

2.283. In October 2012, South Africa recalled that its exports of fresh fruit, particularly table grapes, apples and pears, had been stopped as a result of Thailand's new Plant Quarantine Act. The Act prohibited imports of certain fresh produce until a PRA was completed. An interim provision allowed the entry of products imported to Thailand prior to the prohibition, pending completion of the PRA. Since its application to be recognized as an historical exporter had not been submitted within the first deadline, South Africa had sought to invoke this provision under the case-by-case approval process and had proposed certain minimum requirements until the PRA was completed. Despite this, South African fresh fruit, although historically exported to Thailand, was now excluded from the Thai market. Although South Africa had provided the information necessary to conduct the required PRAs, the Thai authorities had not indicated when the PRAs were likely to be concluded. Consultations at technical and diplomatic levels had been pursued over the past four and a half years, in order to resume trade under the interim provision for historical exporters to Thailand. Although South Africa welcomed the recently concluded agreement which allowed its exports of fresh citrus fruit into Thailand, it remained concerned that the ban on table grapes, apples and pears, as well as stone fruit, continued. The ban had disrupted successful, safe fruit exports to Thailand, depriving South African producers and exporters of a growing market and limiting the choice of Thai consumers. South Africa urged Thailand to lift the ban, so historic trade could resume, and to conclude the required PRAs with urgency.

2.284. Senegal asked for information on the phytosanitary reason for this ban on table grapes and apples.

2.285. Thailand confirmed that the importation of certain fresh fruit and plants was prohibited under the Thai Plant Quarantine Act, until the NPPO had completed a PRA. All of the relevant measures had been notified to the WTO. South Africa's request to export table grapes and other fruits to Thailand was now in the PRA process by the Thai NPPO. The PRA process required different treatments of different pests, which could involve a lengthy technical discussion. Thailand's exports of fresh produce to South Africa, such as mangosteen and longan, were subject to a similar PRA process. Thailand indicated that it had approved the PRA for citrus from South Africa, allowing importation of citrus fruits. Thailand suggested that the NPPOs of both countries engage directly to find a mutually satisfactory solution to the issue.

2.14 Turkey

2.14.1 Animal Health

Requirements for importation of sheep meat (STC 340)

Raised by:	Australia
Supported by:	
Dates raised:	October 2012 (G/SPS/R/69, paras. 19-20)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.286. In October 2012, Australia raised concerns about the undue delay by Turkey in providing information regarding its measures on the importation of sheep meat, requested in April 2011. Australia recalled Turkey's obligations under the SPS Agreement to act in a transparent manner

and to ensure that any SPS measure be based on scientific evidence, only applied to the extent necessary, and not unjustifiably discriminate between Members.

2.287. Turkey responded that its authorities were still working on the requirements and certification procedures for the importation of sheep meat, and that these would be in line with the SPS Agreement. Turkey also committed to sharing the outcomes with Australia as soon as these were completed.

2.15 United States of America

2.15.1 Food safety

US 2009 Food Safety Enhancement Act (STC 299)

Raised by:	China, India
Supported by:	Costa Rica, Jamaica, Mexico, Pakistan, Philippines
Dates raised:	June 2010 (G/SPS/R/59, paras. 21-23), March 2011 (G/SPS/R/62, paras. 43-47), June 2011 (G/SPS/R/63, paras. 42-45), October 2011 (G/SPS/R/64, paras. 52-54), March 2012 (G/SPS/R/66, paras. 61-63)
Relevant document(s):	G/SPS/N/USA/690/Add.11, G/SPS/N/USA/704/Add.2, G/SPS/N/USA/2156, G/SPS/N/USA/2156/Add.1, G/SPS/N/USA/2156/Add.2, G/SPS/N/USA/2156/Add.2/Rev.1, G/SPS/N/USA/2156/Add.3, G/SPS/N/USA/2156/Add.3/Rev.1, G/SPS/N/USA/2156/Add.3/Rev.1/Corr.1, G/SPS/N/USA/2156/Add.4, G/SPS/N/USA/703/Add.3, G/TBT/W/349
Solution:	
Status:	Not reported
Date reported as resolved:	

2.288. In June 2010, China expressed concerns related to the US 2009 Food Safety Enhancement Act. The US Congress had proposed several new measures, including required registration for export food companies, follow-up inspections, compulsory certification for high risk imported products and the expansion of FDA authority. China asked the United States to notify these new measures and to provide the opportunity for Members to make comments before the adoption of the legislation.

2.289. India expressed the need to understand the proposed legislation. Indian industry had questions regarding the duration of the registration process, whether it was modelled on international standards, whether foreign government and sector associations would be notified before or after a food facility was inspected, and how the fast-track process for registration would work. Once it had a better understanding of this process, India would seek further clarification.

2.290. The United States clarified that the US Congress was in the process of considering this legislation and it was not clear when the bill would become law, if at all. Accordingly, because the Food Safety Enhancement Act was not a SPS measure, the United States did not believe it was appropriate to comment on it at this time. However, if this bill or any other food safety legislation did become law, the United States would alert its trading partners, and would notify the WTO accordingly.

2.291. In March 2011, China, supported by Costa Rica and Pakistan, stated that despite promises to that effect, the United States had not notified the draft US Food Safety Modernization Act (FSMA) before the Act was formally adopted in January 2011. Hence, Members were only provided an opportunity to comment on the Act when it was notified by the United States on 2 March 2011. China asked that the United States notify draft regulations from the Act so that Members would have an opportunity to provide comments.

2.292. Jamaica raised several concerns regarding the FSMA relating to: (i) guidelines on the mandatory preventative controls for food facilities; (ii) produce safety standards in place in Jamaica and other CARICOM countries; (iii) the status of the Jamaican Bureau of Standards' inspection checklist vis-à-vis the mandatory inspection of foreign facilities commencing in 2012;

(iv) special and differential treatment with regards to the implementation period for enhancing food tracing and record-keeping; (v) foods tested by an accredited laboratory in Jamaica and whether they would need to be tested in the United States; (vi) the determination of the eligibility of a body listed as one of the accreditation bodies; and (vii) training and funding on the interpretation and implementation of the Act.

2.293. The Philippines requested that the measures and standards of the Act not be unnecessarily burdensome nor unduly increase the cost of compliance for small industries. Mexico expressed concern regarding the administration of foods and that some elements of the Act were not based on science. Mexico noted that it would submit its comments to the relevant authorities.

2.294. The United States indicated that Members would be given an opportunity to comment on draft regulations before they were finalized and became binding on affected parties, including food manufacturers and importers. The FSMA required that FDA publish regulations and guidance documents to implement the provisions of the law and the FDA would publish those documents over the next several years. Regarding Jamaica's comments on food controls, regulations would be developed and Jamaica would have the opportunity to comment during the drafting process. The concerns regarding the inspection frequency and checklists, would be forwarded to the FDA for consideration. The United States further noted that concerning Jamaica`s queries on food tracing, record-keeping and laboratory accreditation, draft regulations would take into consideration information provided by Members as well as existing arrangements. Finally, it was noted that the FDA was still developing plans with regards to capacity development.

2.295. In June 2011, India indicated that the FSMA introduced an elaborate multi-layered scheme of checks within the food supply chain to minimize the possibility of food contamination, putting extra burden on exporters and leading to higher transaction costs. In this light, India sought clarification on several key issues, including the foreign supplier verification programme, the voluntary qualified importer programme, certification and audit, and regulations to be introduced under the FSMA. India urged the United States to ensure the FSMA was in line with the SPS Agreement and the Codex principles and guidelines for the design, operation, assessment and accreditation of food import and export inspection and certification systems.

2.296. China expressed disappointment that the United States did not notify nor provide a sufficient comment period. To avoid unnecessary restrictions on trade, the United States should consider the compatibility of the FSMA regulations with those of developing country Members with whom the United States had signed bilateral SPS protocols. Bearing in mind the importance of food and agricultural exports for developing country Members, the United States should provide a sufficient transition period, as well as technical assistance, for developing country Members to adapt to the new requirements.

2.297. Mexico remained concerned about the administrative procedures in Section 207, the requirements for accreditation, the inspection procedures regarding control and approval in Section 306, the possibility of recognition of equivalence between countries or Memoranda of Understanding, and Section 301 regarding foreign suppliers. Mexico appreciated the US presentation at the last Committee meeting and the meetings between Mexican and FDA authorities in June.

2.298. The United States emphasized its commitment to implementing FSMA in a transparent manner according to its WTO obligations, and keeping in mind Codex standards, guidelines, and texts. It had notified FSMA as G/SPS/N/USA/2156 in February 2011, and the FDA had conducted numerous outreach sessions including a special session at the March SPS Committee meeting to provide detailed explanations of the law. The United States had received comments from China and Mexico, but not from India, before the June meeting. The FDA had not yet implemented the provisions regarding foreign supplier and voluntary importer programmes and welcomed Members' comments when these provisions were notified, in particular scientific evidence on potential health and safety concerns and data on economic impacts. The United States reported that it would notify all implementing regulations to foreign stakeholders through the WTO, as they were developed and consistent with its international obligations. A series of events had been organized between FDA representatives in Delhi and relevant Indian authorities, including a briefing on the FSMA in February 2011, a discussion regarding third party certification in May 2011, a series of four-day workshops to over 175 participants in May 2011, and a meeting with senior Indian officials and exporters in October 2011.

2.299. In October 2011, China emphasized the importance of food and agricultural exports for developing country Members, and urged the United States to provide a sufficient transition period before implementation of the FSMA, as well as technical assistance for Members to adapt to the new requirements.

2.300. India stated that the FSMA created extra burdens for exporters and led to higher transaction costs. India argued that various provisions of the FSMA did not reflect the core principles of equivalence (Article 4) and harmonization (Article 3) of the SPS Agreement, and urged the United States to ensure the FSMA was in line with the SPS Agreement so as not to affect trade between Members. India's key concerns related to the registration of Foreign Food Facilities, the Voluntary Qualified Importer Program, Certification and Audit and the Foreign Supplier Verification Program.

2.301. The United States noted that FDA was as transparent as possible, including making presentations to the SPS Committee, holding numerous outreach sessions with all stakeholders, keeping current information on the Web. The United States was committed to implement FSMA in a transparent manner consistent with its WTO obligations and would take into account relevant Codex standards and guidelines. The FDA had issued interim final rules requiring persons submitting prior notice of imported food to report any other countries' refusal of the food (G/SPS/N/USA/690/Add.11) and had also amended criteria used to order administrative detention of food for human or animal consumption (G/SPS/N/USA/704/Add.2). The FDA had not yet issued regulations for the FSMA provisions for the foreign supplier and voluntary importer programmes. Members could comment when the proposed rules were notified. The United States welcomed Members' perspectives on implementation of the FSMA.

2.302. In March 2012, India recalled that in October 2011 it had raised concerns that the FSMA put extra burden on exporters, and reiterated the provisions of greatest concern. India urged the United States to communicate the timeframe for the issuance of these regulations, and asked whether the regulations would provide for bilateral mutual recognition agreements that could help Indian exporters access the US market. India also requested information on how much time would be provided to exporters to meet new requirements, as this would require technical assistance and better understanding to ensure all regulations were fully followed. India also requested clarification about the additional costs to exporters for the registration of foreign suppliers.

2.303. China echoed the concerns of India, and recalled the US document G/TBT/W/349 concerning the use of the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA) and the International Accreditation Forum (IAF) Multilateral Recognition Arrangement (MLA) by central government bodies. China requested confirmation that the US FDA had taken concrete steps to accept test results issued by testing laboratories from exporting Members accredited under the ILAC MRA framework.

2.304. The United States recalled that it notified FSMA and certain user fee rates in February and October 2011, respectively (G/SPS/N/USA/2156 and addenda). An interim final rule had been notified (G/SPS/N/USA/703/Add.3) to amend FDA's regulation on the record availability requirements. The amendment expands FDA's access authority to records relating to any other article of food that the Secretary of Health Human Services reasonably believes is likely to be affected in a similar manner. Trading partners should submit comments on the notified measures. The United States hoped to soon publish proposed rules relating to preventive controls for human foods and animal feed, produce safety, foreign supplier verification, and third-party accreditation. The FDA would be mindful of the Codex Alimentarius standards, guidelines and related texts, while ensuring FSMA programmes provided the appropriate level of health protection for US consumers.

US default MRLs, limits of determination or limits of quantification on basmati rice (STC 328)

Raised by:	India
Supported by:	New Zealand
Dates raised:	October 2011 (G/SPS/R/64, para. 47-48), March 2012 (G/SPS/R/66, paras. 47-49), July 2012 (G/SPS/R/67, paras. 29-30)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.305. In October 2011, India stated that in August 2011, the US Food and Drug Administration (FDA) issued an import alert because of the presence of the fungicide Tricyclazole in a shipment of basmati rice. The shipment was detained without informing either the Indian Government or the exporter, and all subsequent consignments of basmati rice by that exporter were detained without physical examination. The US tolerance was at the Limit of Quantification, and consignments were being rejected for Tricyclazole residues exceeding 0.01 ppm. These detentions and the imposition of testing charges had resulted in huge losses to the exporter. Tricyclazole was a fungicide used for treatment of Blast in rice. The US tolerance limits conflicted with Article 5.4 of the SPS Agreement, which required Members to take into account the objective of minimizing negative trade effects, as Tricyclazole was widely used in India, China, Japan and Thailand for treatment of Blast. Further, Article 5.5 was not respected as the FDA permitted MRLs of Tricyclazole in rice bran, rice hulls and rice polishings of up to 30 ppm. No risk assessment, as mandated by Articles 2.2 and 5.1, seems to have been undertaken while setting the tolerance limit for Tricyclazole. India argued that the practice of setting default limits was contrary to the core principles of the SPS Agreement as there appeared to be no scientific justification, and it seemed to be contrary to the principle of harmonization of Article 3.

2.306. The United States replied that under the US Food, Drug, and Cosmetic Act, a food was deemed adulterated if it contained a pesticide for which there was no Environmental Protection Agency (EPA)-established tolerance or exemption, and food that is adulterated is not admitted into the United States. Several firms and products had been added to FDA's Import Alert #99-08, "Detention Without Physical Examination of Processed Foods due to Illegal Pesticide Residues" Products, including persimmon and rice flour, as well as basmati rice from three countries, had been subject to an Import Alert due to detection of Tricyclazole. The Government of India and the exporter were notified about the detention. When a shipment was detained, the importer had the opportunity to demonstrate that the shipment did not contain the residue, and FDA usually accepted private laboratory analysis as evidence that there were no residues. No tolerances for the use of Tricyclazole as a pesticide in rice had been established by EPA. The EPA had established tolerances for rice for three alternative fungicides, namely Azoxystrobin, Propiconazole, and Trifloxystrobin. India could use one of the alternative fungicides to combat rice Blast or work with EPA to establish a tolerance for Tricyclazole in the United States. The Codex had not established a maximum tolerance level for Tricyclazole in any food. The United States encouraged India to work with EPA and FDA to address the concerns.

2.307. In March 2012, India reiterated its concerns regarding US rejections of basmati rice due to the presence of Tricyclazole. India recalled the US response at the October meeting, and argued, that under Article 5.1 of the SPS Agreement scientific justification should be provided for fixing any MRL for pesticides and that a Limit of Detection requirement must be justified. Tricyclazole was registered and used in the European Union, China and Japan for rice, with MRLs of 1 ppm, 2 ppm and 3 ppm, respectively. According to Article 5.7, Members could adopt the standards of other countries when there was no relevant international standard. India urged the Committee to invite the Codex Alimentarius Commission to examine the scientific basis of the US measure, under Article 12.6. US authorities had agreed to bilateral discussions and India urged the United States to allow imports based on the domestic standard of the exporting country, until both countries were able to finalize the MRL based on scientific justification.

2.308. The United States noted that a food was deemed adulterated if it contained a pesticide for which there was no EPA-established tolerance or exemption, and FDA had found residues of

Tricyclazole and other pesticides at unapproved levels in shipments of basmati rice. When a shipment was detained, the importer had the opportunity to demonstrate that the individual shipment did not contain the residue, and multiple shipments had been released in cases where approved laboratory findings demonstrated compliance with US tolerances, and one firm had been removed from Import Alert. Since the last Committee meeting, more chemicals without US tolerances had been detected in Indian basmati rice shipments into the United States. This raised fundamental concerns as to whether good agricultural practices were in place, rather than indiscriminate use of pesticides. One of the manufacturers of Tricyclazole had submitted a petition to the EPA in February 2011 to establish an import tolerance on basmati rice. The United States encouraged India to continue working with FDA and EPA to address the concerns of the Import Alert, and the presence of Tricyclazole and other pesticides.

2.309. India reiterated its request under Article 12.6 for the Committee to invite the Codex Alimentarius Commission to consider the scientific basis of the US measure, since no standards currently existed in relation to the issue. The Chair stated that India's request under Article 12.6 would require separate consideration and reminded India that the Committee would need to take a decision by consensus on this issue. The Chair invited India to submit its request in writing, for consideration by the Committee at the next regular session. New Zealand asked that India give a detailed account of the background of this issue in its request under Article 12.6.

2.310. In July 2012, India requested the United States to provide the scientific justification for its MRLs for pesticides in light of Articles 2.2 and 5.1 of the SPS Agreement. Additionally, India requested the United States to provide a scientific justification for establishing MRLs for pesticides at the limits of determination (LoD). India was working with the EPA to address its concerns on the import alert, which had been issued due to the presence of Tricyclazole and other pesticides. In this regard a letter had been set by Dow Chemicals to the US authorities providing details for fixing MRLs for tricyclazole at LoD. India urged the United States to expedite the process.

2.311. The United States reiterated that repeated violations of US law could result in putting a firm on an import alert, subjecting that firm to detention without physical examination. Since the initial detection of Tricyclazole in June 2011, the FDA had added 11 Indian firms to its import alert list, and a further seven pesticides were detected at unapproved levels. Since October 2011, the FDA had collected 70 samples of basmati rice from India, detecting pesticide residues of illegal substances in 36 shipments. Shipments that were able to demonstrate that they met US requirements were released into the US market, otherwise entry was refused. FDA was working with the Export Inspection Council in India to establish a voluntary compliance programme to monitor basmati rice shipped to the United States and ensure it was free of the pesticide. The All India Rice Export Association had also reported the initiation of outreach efforts on good agricultural practices to limit the use of illegal pesticides and chemicals in an effort to improve farming practices. The United States reiterated that the detention of shipments of basmati rice was due to the use of unapproved pesticides and encouraged India to inform exporters about the US tolerance regulations; to address the concerns of the US import alert; and to work closely with the FDA and the Export Inspection Council to resolve this public health concern.

2.15.2 Animal Health

US risk analysis for the entry of queen bees (STC 301)

Raised by:	Argentina
Supported by:	
Dates raised:	June 2010 (G/SPS/R/59, paras. 28-29), October 2012 (G/SPS/R/69, paras. 53-54)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.312. In June 2010, Argentina raised concerns about US risk analysis for the importation of queen bees from Argentina into the North American market. Argentina had conducted research and provided information to the US Animal and Plant Health Inspection Service (APHIS). There had

been a constructive exchange and Argentina hoped to soon report the satisfactory conclusion of the risk assessment.

2.313. The United States reported that due to the importance of beekeeping in US agriculture, there was a high level of protection against foreign bee pests and diseases. On 7 June 2010, the US Department of Agriculture (USDA) had started a national bee pest and disease survey to determine the prevalence of parasites and disease-causing micro-organisms that could contribute to the observed decline of American honey bee colonies. Two laws, the Honey Bee Act and the Plant Protection Act, direct the USDA to enforce sanitary regulations to protect honey bee colonies, and the United States had published science-based risk assessment procedures for approving imports of bees. With respect to Argentina's request for a risk assessment, the United States had provided the findings of an assessment to the Argentine authorities in 2004, identifying three pests of concern in Argentine bees: Africanized honey bee, Braula schmitzi (bee louse), and Varroa destructor (mite). In September 2009, the United States had informed Argentina that the risk assessment was being revised to reflect changes in bee health and risks worldwide. Information collected from the national survey launched in June 2010 would inform further risk assessment of Argentine queen bees.

2.314. In October 2012, Argentina expressed its concern about the delays by the United States in granting authorization for the importation of queen bees. Argentina had requested access to the US market in 2000 and had submitted all the information requested by USDA/APHIS in order to facilitate the pest risk analysis (PRA). It was not until 2004 that the United States requested further information, including the provision of the genetic characterization of Argentina's queen bees, which was submitted. In 2008, after three years of research, with the participation of laboratories from Spain, an ad hoc scoping study was presented which demonstrated the absence of Africanized bees and of parasitic exotic plagues in Argentina. In 2009, USDA/APHIS informed Argentina that the PRA of queen bees was not a regulatory priority and that is would not proceed with the assessment. This situation was inconsistent with Articles 5, 8 and Annex C of the SPS Agreement and Argentina was concerned that the information which it had submitted in a timely manner would no longer be valid when USDA/APHIS finally decided to consider its request.

2.315. The United States indicated that a number of factors had contributed to the declining health of honey bee colonies in the United States over the past few years. Some of the factors affecting honey bees included the introduction into the United States of several foreign bee pests and new diseases caused by viruses. For this reason, an effective level of security had been established to prevent the introduction of foreign bee pests and diseases, which could rapidly spread throughout the United States. A science-based risk assessment procedure had been published for approval of countries' exports of bees, including from Argentina, to the US market. In compliance with the risk assessment procedure and based on changes in bee health and risks worldwide, the United States had requested technical information from Argentina on several occasions and letters were exchanged in 2011 and 2012. After reviewing the data, the USDA informed its counterpart SENASA in September 2012 that Argentina's request for access for bees could not be considered until further information and disease information was provided. There was no delay in the US PRA, but, as stated in September 2012, Argentina needed to provide information regarding the presence of diseases in Argentina's bee population and on the regulatory control of imports of honey bees into Argentina. The United States urged Argentina to quickly respond to this request for information in order to expedite their request and resolve the concern.

US failure to recognize South Patagonia as FMD-free and to import beef from North of the 42nd Parallel (STC 318)

Raised by:	Argentina
Supported by:	
Dates raised:	June 2011 (G/SPS/R/63, paras. 17-18), October 2011 (G/SPS/R/64, paras. 96-97), July 2012 (G/SPS/R/67, paras. 43-44), , WT/DS447/2
Relevant document(s):	WT/DS447/1, WT/DS447/1/Corr.1, WT/DS447/2
Solution:	DSU consultations requested on 30 August 2012
Status:	
Date reported as resolved:	

2.316. In June 2011, Argentina expressed its concern that the United States failed to recognize South Patagonia as a FMD-free region without vaccination, despite the OIE recognition of this status for South Patagonia since 2002. The request for recognition had been sent to the United States in 2003, and a risk analysis conducted in 2007 gave satisfactory results, however no recognition had been granted. Argentina was also concerned about the delay in the US authorization of imports of fresh, chilled and frozen beef from the region north of the 42nd parallel. The OIE recognized the rest of Argentina as an FMD-free area with vaccination in 2007. The US Department of Agriculture (USDA) had carried out an audit in 2006, but had never reported the results. The delays in processing both of these requests were not due to scientific reasons and were therefore in contravention of Articles 3 and 6, and Annex C, of the SPS Agreement.

2.317. The United States stated that USDA was considering several requests from Argentina to allow imports of lamb and beef into the United States. USDA's Animal and Plant Health Inspection Service (APHIS) had made significant progress in recognizing the FMD-free status of South Patagonia. In light of the information Argentina provided in 2009, which was used to update the 2005 risk analysis, APHIS was able to conclude that the import of ruminants and ruminant products from this region presented a negligible risk of FMD. This information was used in preparing a draft report to Congress on the risk associated with importing ruminants or ruminant products from Southern Patagonia. By law, the report had to be submitted to the Congress before USDA could move forward with administrative rule-making. APHIS had also completed the risk analysis regarding the region north of the 42nd parallel and would subsequently draft a proposal to allow the importation of beef under certain conditions.

2.318. In October 2011, Argentina recalled the US comments that the information provided by Argentina was useful to prepare a report to Congress as required by the Agriculture and Rural Development, Food and Drug Administration Appropriations Act of 2009, Section 737. The United States had also indicated that APHIS had completed the risk analysis for the rest of Argentina and had drafted proposed regulations to allow for the importation of meat products. However, in spite of this, trade had not resumed and imports from Argentina continued to be restricted without any scientific basis. Argentina requested the United States to complete its risk analysis and allow access to the US market for meat products.

2.319. The United States stated that it was working closely with the Argentine authorities and APHIS had made significant progress in recognizing the FMD-free status of South Patagonia. APHIS had completed the risk assessment and was drafting a proposal to allow the importation of beef under certain conditions. When the assessment and rules were completed in the near future, the United States would be able to provide market access for Argentine beef.

2.320. In July 2012, Argentina reiterated its concerns regarding undue delays in the US authorization of imports of fresh, chilled or frozen bovine meat from FMD-free with vaccination areas, and in the recognition of areas as FMD-free without vaccination, requests made in 2006 and 2003, respectively. After finalizing its risk analysis, the United States had committed itself to allow imports of meat from FMD-free with vaccination areas, under certain conditions. The United States had also stated that the import of ruminants and ruminant products from the FMD-free without vaccination areas represented a negligible FMD risk to animal health. The United States had informed Argentina that it would prepare a report for the US Congress. Argentina questioned the need for the intervention of a political organ, and the legal basis for this process. Although the scientific phase had been completed with favourable results of the risk analysis for both areas, there had been no advancement on the requests. Argentina requested the United States to explain the delays in the administrative procedures to allow the import of meat from both areas of Argentina, and to indicate the time foreseen for the completion of the process.

2.321. The United States reported that in 2007 it had published a proposed rule recognizing Southern Patagonia as FMD-free. Several stakeholders had expressed grave concerns regarding the potential risks of the spread of FMD to the United States. Given this response, the US Congress had required USDA to submit a report to Congress regarding the FMD risk associated with importing animal products from Southern Patagonia in 2009. Since that time, USDA had been in consultation with the relevant stakeholders and legislative bodies to review the issue. Imports of cooked products from Argentina were not prohibited. The United States recognized the priority Argentina placed on the request and was committed to resolving the concern as expeditiously as possible.

2.322. In accordance with the provisions of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Argentina requested consultations with the United States on 30 August 2012 (WT/DS447/1). Argentina requested the establishment of a panel on 6 December 2012 (WT/DS447/2).

2.15.3 Plant Health

Prohibition of Ornamental Plants Larger than 18 inches (STC 292)

Raised by:	Costa Rica
Supported by:	
Dates raised:	March 2010 (G/SPS/R/58, paras. 21-22)
Relevant document(s):	Raised orally
Solution:	Concern resolved following the publication by the United States of a modified regulation addressing the concerns of Costa Rica.
Status:	Resolved
Date reported as resolved:	10 July 2012

2.323. In March 2010, Costa Rica referred to the US restrictions on the importation of ornamental plants larger than 18 inches, based on the US Code of Federal Regulation, section 37, part 319, title 7 (7 CFR § 319.37). Costa Rica reported that in early 2000 it had conducted a risk assessment to support its request for the United States to lift its restrictions. Based on a US request, Costa Rica had established and operated a Clean Stock Program, aimed at reducing the number of interceptions of exports of ornamental plants to the United States. The Clean Stock Program for Dracaena marginata started to operate in 2005, and it involved authorities from Costa Rica and the United States. The Program concluded its work in December 2008. However, more than one year after the conclusion of the Program, the United States had not yet initiated a process to modify its regulation restricting the importation of ornamental plants larger than 18 inches. A working plan had been elaborated by the regulatory agencies of both countries, nevertheless, Costa Rica was concerned that despite the agreement on the technical issues of the plan, the United States was taking too long to revise its restrictions.

2.324. The United States reported that the authorities of both countries had been working cooperatively on issues related to the importation of tropical foliage, particularly dracaena spp.. The on-going work addressed the development of greater surveillance and inspection protocols to reduce the high number of interceptions. The US Department of Agriculture (USDA) was working with Costa Rica on a work plan and a proposed rule to allow the safe entry of oversized dracaena spp. To complete the science-based review process, the USDA was awaiting a response on the draft work plan by Costa Rica, so as to expand the current Clean Stock Program.

2.325. In July 2012, Costa Rica reported that its specific trade concern on the "Prohibition of Ornamental Plants Larger than 18 inches" (No. 292) had been resolved following the publication by the United States of a modified regulation addressing the concerns of Costa Rica. The United States thanked Costa Rica for its outstanding co-operation and collaborative efforts in resolving the concern.

US measures on fresh lemons from the North West region of Argentina (STC 336)

Raised by:	Argentina
Supported by:	
Dates raised:	July 2012 (G/SPS/R/67, paras. 27-28)
Relevant document(s):	WT/DS448/1 and WT/DS448/1/Corr.1, WT/DS448/2
Solution:	DSU consultations requested on 30 August 2012
Status:	
Date reported as resolved:	

2.326. In July 2012, Argentina expressed its concerns about the delay for reopening the US fresh lemon market for exports from its North West region. After six years of negotiations, Argentina

and the United States had agreed on the risk mitigation measures for citrus canker and other pests, and in August 2000, the United States had opened its citrus markets for Argentinian exports. Argentina recalled that in September 2001, the United States suspended the import of citrus products from the North West region of Argentina following a court ruling. Negotiations to reopen the market were initiated in 2005, when citrus canker had spread to Florida and could no longer be the reason to restrict imports from Argentina. The US Department of Agriculture/ Animal and Plant Health Inspection Service (USDA/APHIS) requested, *inter alia*, that the fruit must originate from areas free of Citrus Variegated Chlorosis (CVC). This requirement was disproportionate and unjustified, as no other market in the world considered CVC to be a pest requiring quarantine measures for fresh lemons. Although Argentina had agreed to carry out a study of disease transmissibility, this was not possible as the absence of the disease in lemon trees did not allow for the isolation of the bacteria. In November 2011, in agreement with APHIS, Argentina sent a report demonstrating the absence of CVC in lemons. In May 2012, Argentina requested an answer from the United States and on 4 June 2012, APHIS replied that despite the fact that the report indicated absence of CVC, there was no information indicating the conditions under which the lemon trees could become infected with the bacteria. In ignoring the scientific evidence presented, the United States was acting inconsistently with Articles 2.2, 5.1, 5.6 and 8 of the SPS Agreement, and the unjustified delay in reopening the market was seriously affecting the regional economy.

2.327. The United States stated that APHIS had worked with Argentina's SENASA for several years to develop a pest risk assessment and a set of risk mitigation measures that would permit the safe import of lemons from the North West region. APHIS was currently evaluating the occurrence and transmissibility of diseases such as CVC, citrus canker and other pests of concern, as well as potential mitigation measures, before it could consider allowing imports from this region. The United States was not ignoring the scientific evidence from Argentina, and had sent a letter on 4 June 2012 to SENASA communicating the outcome of APHIS' evaluation of Argentina's report on the transmissibility of CVC in lemons, and indicating that it would subsequently share a pest risk assessment for consultation. APHIS was waiting for SENASA's response to the letter. The United States remained committed to work closely with Argentina.

2.328. In accordance with the provisions of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Argentina requested consultations with the United States on 30 August 2012 (WT/DS448/1). Argentina requested the establishment of a panel on 6 December 2012 (WT/DS448/2).

Restrictions on tomatoes (STC 339)

Raised by:	Senegal
Supported by:	
Dates raised:	October 2012 (G/SPS/R/69, paras. 17-18)
Relevant document(s):	G/SPS/N/USA/2019
Solution:	
Status:	Not reported
Date reported as resolved:	

2.329. In October 2012, Senegal raised concerns regarding US restrictions on imports of tomatoes due to alleged presence of the pest *tuta absoluta*. In the framework of the African Growth and Opportunity Act (AGOA), a team of experts from the United States had made recommendations regarding Senegal's tomato production which were complied with. In 2009, when information was received of the reappearance of the *tuta absoluta* in parts of Europe originating from Latin America, Senegal effectively banned imports from infested areas, particularly Morocco, as notified in G/SPS/N/SEN/7 in 2010. The US ban on imports of tomatoes had not been notified or verified with the Senegalese authorities, although subsequently a bilateral technical meeting had been held to seek resolution of the issue.

2.330. The United States highlighted that the issue raised by Senegal was discussed in a bilateral technical discussion and an agreement to work together to address the concern was reached, with progress to be reported at the next meeting.

2.15.4 Other concerns

Measures on catfish (STC 289)

Raised by:	China
Supported by:	
Dates raised:	October 2009 (G/SPS/R/56, paras. 21-22), October 2012 (G/SPS/R/69, paras. 29-30)
Relevant document(s):	G/SPS/N/USA/2171
Solution:	
Status:	Not reported
Date reported as resolved:	

2.331. In October 2009, China raised concerns about the US Federal Meat Inspection Act which potentially could have a significant impact on the international trade of catfish. According to the Act, regulatory responsibility for catfish was shifted from the Food and Drug Administration (FDA) to the US Department of Agriculture (USDA). USDA was mandated to draft a series of rules concerning the production and inspection requirements for catfish before the beginning of 2010; countries wanting to export or to continue exporting catfish to the United States were required to have their inspection system recognized by the USDA as equivalent to the US system. China had serious concerns about the possible negative impact this change of the regulatory system could have on the current catfish trade. China requested an explanation of the sudden change of the regulatory system, and whether any SPS risk factors had triggered the decision. China also questioned whether the US policy would remain consistent in order to avoid any adverse effect to the existing trade of catfish, and whether the existing trade between China and the United States would be taken into consideration when developing the new regulatory system.

2.332. The United States stated that the Food Conservation and Energy Act of 2008, signed into law on 18 June 2008, amended the Federal Meat Inspection Act and required USDA's Food Safety Inspection Service (FSIS) to establish a new federal programme for the production and inspection of catfish. In preparation of the anticipated changes to the federal regulations, USDA had visited and communicated with many Members to alert them to the new law. Members were encouraged to participate in the rule-making process once it was announced and notified via the WTO, and to identify any potential concerns with the proposed regulation as soon as possible.

2.333. In October 2012, China recalled that in March 2011, the United States notified a requirement for mandatory inspection of catfish and catfish products which included catfish regulation with that of terrestrial animal meat products. Aquatic animal products presented lower risks than terrestrial animal products, and China sought an explanation and risk assessment from the United States. Moreover, China hoped that if the regulation were to be implemented, the United States would respect the traditional transitional period of 5 years considering China's developing country status.

2.334. The United States recalled that the Food Conservation and Energy Act of 2008 mandated that catfish be regulated under the Federal Meat Inspection Act. A proposed rule for the inspection of catfish was notified to the WTO and comments accepted until 24 June 2011. The US Department of Agriculture was still reviewing the comments and would notify the adoption of the final rules for inspection of catfish before implementation. The United States would make every effort to minimize disruptions to trade once the catfish inspection program began.

2.16 Viet Nam

2.16.1 Food safety

Ban on offals (STC 314)

Raised by:	United States of America, European Union
Supported by:	Australia, Canada, New Zealand
Dates raised:	March 2011 (G/SPS/R/62, paras. 28-31), June 2011 (G/SPS/R/63, paras. 60-63), October 2011 (G/SPS/R/64, paras. 57-60), March 2012 (G/SPS/R/66, paras. 39-41), July 2012 (G/SPS/R/67, paras. 31-35), October 2012 (G/SPS/R/69, paras. 33-35)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

2.335. In March 2011, the United States expressed concerns about Viet Nam's implementation of a temporary ban on the importation of offal products as of 7 July 2010. While Viet Nam had cited food safety concerns for the implementation of the ban, in spite of repeated requests from several trading partners, Viet Nam had neither notified the WTO of this measure, nor had it provided any scientific justification for the ban. The United States had raised this issue bilaterally in the margins of previous Committee meetings and at Transpacific Partnership meetings, but was yet to see any change in the ban.

2.336. Canada supported the concerns of the United States. Canada was informed of the ban only after it had been imposed, and was not provided any scientific explanation for the action. This action had resulted in the immediate ban of trade valued at 4.2 million Canadian dollars in 2009. Canada had made numerous requests for Viet Nam to remove the ban, and the Canadian embassy in Viet Nam had been informed that Viet Nam intended to partially lift the ban. However, Viet Nam had subsequently introduced additional SPS requirements on offal imports, which Canada hoped were science-based.

2.337. The European Union, New Zealand and Australia supported the concerns expressed by the United States and Canada.

2.338. Viet Nam responded that the emergency measures taken to temporarily suspend the importation of offals were in response to grave public health concerns. According to a 2009 WHO report, eight million Vietnamese people had health problems related to food. Viet Nam was aware of the concerns raised by its trading partners and was looking for solutions. However, as a developing country with limited resources, it would take some time to strengthen the inspection procedures and provide uniform guidelines. Viet Nam had already lifted its temporary ban on offals from poultry and pork and was currently in discussion with the United States and other trading partners to find adequate solutions for both Viet Nam's human health situation and trade.

2.339. In June 2011, the United States expressed concerns that Viet Nam continued to restrict trade in offal as of July 2010 without providing any scientific justification or notification. Viet Nam had since lifted its ban on hearts, livers, and kidneys derived from cattle, swine, and poultry, but the ban on all other offal products continued. To date, no scientific justification had been provided for the ban, despite many requests for such information, and the United States urged Viet Nam to lift its unjustified ban immediately.

2.340. The European Union expressed similar concerns and indicated that the ban seriously affected EU exports of offal. The ban was not consistent with Viet Nam's obligations under the SPS Agreement, as the measure had not been notified; no scientific justification had been provided despite requests from trading partners, and there were no similar measures on domestic offal, thereby discriminating against foreign imports. The recent revision of the ban, which would allow resumption of imports of some red offal, was a positive step, but the ban on other types of offal remained in place. Viet Nam was urged to immediately lift its ban on all offal or, alternatively, to provide a risk assessment and scientific justification. Viet Nam should refrain from implementing

such measures in the future, and comply with the transparency requirements and other obligations under the SPS Agreement.

2.341. New Zealand supported the systemic concerns expressed by the United States and the European Union, specifically with regard to the lack of notification and scientific justification, and requested Viet Nam to lift the ban as soon as possible.

2.342. Viet Nam responded that there was no formal regulation banning imports of offal. During 2009 and early 2010, imported frozen animal and animal products were found to violate the food safety requirements of Viet Nam; within that time period, Viet Nam detected and disposed of 94 tons of meat, 42,57 tons of offal, and 234,000 chickens. In order to protect Vietnamese consumers, the government issued Letter 1152 requesting relevant agencies to better control imported animal products. The Ministry of Agriculture and Rural Development (MARD) enacted Circular 25 on registration and management to control the import of animal products, and Circular 29 on criteria for testing and control to regulate the level of contaminants in animal products. To continue trade in animal offal, the MARD Department of Animal Health enacted an official letter on 23 March 2011 to guide the import of red offal. On 1 June 2011, the MARD sent Letter 1528 to Viet Nam's customs offices to inform them of the decision to allow trade in red offal. According to data from the Department of Animal Health, from March to May 2011 Viet Nam imported 170 tons of red offal from the United States and Canada. Viet Nam still banned all trade in white offal and intended to conduct a risk assessment on white offal. Viet Nam was willing to meet bilaterally with interested Members, and sought more information and data with which to conduct the risk assessment with the goal of opening trade in white offal.

2.343. In October 2011, the European Union indicated that Viet Nam's ban continued to seriously affect EU exports of offal, and recalled that Viet Nam had previously indicated its intention to conduct a risk-assessment. Viet Nam claimed to have taken these measures because imported frozen animals and animal products were found to violate its food safety requirements. However, Viet Nam had indicated that no violations were found on EU products, and as such import bans on EU offal were not justified. Moreover, since there were no similar measures on domestic offal, the measure discriminated against foreign imports. The European Union welcomed Viet Nam's partial lifting of the ban on red offal, and looked forward to Viet Nam's commitment to lift the ban by end of 2011.

2.344. The United States shared concerns about Viet Nam's restrictions on offal without any scientific justification or notification being provided to the WTO or trading partners. After months of discussions, MARD had provided an official indication in July 2011 that it would lift its ban on red offal, and later on products derived from cattle. However, all other products, such as stomachs and intestines derived from cattle, swine, and poultry, remained banned. The United States urged Viet Nam to lift all of the bans on offal immediately.

2.345. New Zealand repeated its support of the systemic concerns expressed by the European Union and the United States, specifically with regard to the lack of notification and scientific justification.

2.346. Viet Nam reiterated that the temporary measure was geared at protecting human health from risks arising from contaminants, toxins or disease-causing organisms in food, and that the measure did not aim to impose trade restrictions. In light of the concerns of its trading partners, Viet Nam was considering how to prevent a negative trade impact from the measure, and had already lifted the ban on red offals. However, as a developing country with limited resources, the Vietnamese authorities needed time to collect the information for risk assessments. Viet Nam urged trading partners to provide relevant information and technical cooperation to facilitate the process.

2.347. In March 2012, the European Union expressed its continuing concerns with Viet Nam's ban on imported offals, and particularly white offals. Although Viet Nam had previously stated that the temporary measure was to protect human health, it had not yet provided a risk assessment. This measure had affected EU exports but there was no indication of any safety problems with EU offals. The ban was neither justified nor proportionate and since there were no similar measures on domestic offal, the measure discriminated against foreign imports. The European Union urged Viet Nam to immediately lift any remaining restrictions on imports of offals.

2.348. The United States shared the EU concerns and observed that the measure had not been notified nor information provided to trading partners to support the purported safety concerns. While the ban had been lifted on red offal, all other offal products, known as white offal, such as stomachs and intestines, remained banned. Viet Nam was urged to provide a scientific assessment or to immediately lift the ban on all offal.

2.349. Viet Nam reiterated that the temporary measure was geared at protecting human health from high risks from contaminants, toxins or disease-causing organisms in food. In light of the concerns of trading partners and to facilitate the trade of food products, including offal, Viet Nam had issued a number of documents, such as Food Safety laws, to facilitate the control and regulation of food imports. The ban on red offal had been lifted and the ban on white offal remained because of the lack of a clear definition of offal in international standards. Viet Nam's experts were working in close cooperation with trading partners to clearly define offal and to discuss other related issues in order to find appropriate solutions. Once again Viet Nam urged interested trading partners to provide relevant information and technical cooperation to facilitate the completion of the research process.

2.350. In July 2012, the United States recalled that in July 2010, Viet Nam imposed a temporary ban on the importation of offals from all countries, including the United States. The measure was never notified to the WTO and no scientific data had been provided that justified Viet Nam's food safety concerns. After months of discussions, in April 2011 Viet Nam provided official notification that it would lift the ban on imports of pork and poultry hearts, livers and kidneys (red offal), and in May 2011, for the same products derived from cattle, but this was not done. In November 2011, Viet Nam indicated that it would complete a regulatory review within three months of the offal trade suspension. Having received no information on the status of the review, in May 2012 the United States again sent a letter to Viet Nam. The United States remained concerned by Viet Nam's continued ban on offal products derived from cattle, swine and poultry and urged Viet Nam to immediately lift all of the bans on offal.

2.351. The European Union supported the concerns raised by the United States. The ban had only been partially lifted for red offals in 2011, and Viet Nam had indicated that further lifting of the ban was pending the outcome of the risk assessment. The European Union welcomed Viet Nam's recent communication that the ban would soon be lifted.

2.352. New Zealand expressed a systemic concern as the measure of concern had not been notified nor scientific justification provided, and requested that the ban be lifted as soon as possible. Australia welcomed the fact that Viet Nam had lifted the ban on red offal but expressed disappointment that trade in white offal was still prohibited as it had a significant impact on Australian trade.

2.353. Viet Nam reiterated that the temporary measure aimed at protecting human health from high risks from contaminants, toxins and disease-causing organisms in food. It had strengthened its technical regulations and improved its human capacity to facilitate the quality control of food and food stuff; as a result, the import of red offal had resumed in 2011. The reopening of its market to white offal was under consideration and Viet Nam remained open to bilateral discussions with its trading partners.

2.354. In October 2012, the European Union stated that Vietnam had clarified that the ban was temporarily imposed due to food safety concerns and had lifted the ban on red-offal following bilateral discussions and confirmation that no problems were detected in offal imported from the European Union. However, the ban on white offal remained, and without a risk assessment. The European Union urged Vietnam to rapidly find a solution in order to lift the unjustified measure.

2.355. Australia, New Zealand, and the United States also noted that the existing ban on white offal was affecting their trade and requested Vietnam to lift the ban.

2.356. Viet Nam reiterated that this was a temporary measure to protect human health from harmful contaminants, toxins or disease-causing organisms in offal while it improved its human capacity to ensure inspection. Limitations of resources and human capacity had delayed the removal of the ban on white offals, however the issue was under consideration. Viet Nam

appreciated the relationship with its trading partners and was willing to work with them to find an amicable solution.

2.17 Certain Members

2.17.1 Animal Health

General import restrictions due to BSE (STC 193)

Raised by:	United States of America, European Union
Supported by:	Canada, Switzerland, Uruguay
Dates raised:	June 2004 (G/SPS/R/34, paras. 37-38), October 2004 (G/SPS/R/35, paras. 85-86), June 2005 (G/SPS/R/37/Rev.1, paras. 75-76), February 2007 (G/SPS/R/44, para. 29), October 2008 (G/SPS/R/53, paras. 24-28), February 2009 (G/SPS/R/54, paras. 11-12), June 2009 (G/SPS/55, para. 47), October 2009 (G/SPS/R/56, para. 46), March 2010 (G/SPS/R/58, paras. 35-36), June 2010 (G/SPS/R/59, para. 44), October 2010 (G/SPS/R/61, para. 24), March 2011 (G/SPS/R/62, para. 65), June 2011 (G/SPS/R/63, paras. 73-74), October 2011 (G/SPS/R/64, paras. 98-99), March 2012 (G/SPS/R/66, paras. 28-31), July 2012 (G/SPS/R/67, paras. 45-48), October 2012 (G/SPS/R/69, paras. 49-52)
Relevant document(s):	Raised orally
Solution:	Solutions notified regarding certain Members
Status:	Partially resolved
Date reported as resolved:	

2.357. 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.

2.358. 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.

2.359. 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.

2.360. 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 derived 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.

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

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

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

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

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

2.366. In February 2009, the European Communities drew attention to the OIE standard for BSE, which did not recommend trade restrictions on de-boned beef from animals aged less than 30 months. The European Communities met this standard, but its exports were still facing trade restrictions. National restrictions maintained despite the OIE Code undermined this standard that had been adopted after long negotiations, thus damaging the credibility of the OIE. The OIE was planning to update the Code, because there was compelling evidence that the age requirement was not necessary, but the European Communities questioned whether this was worthwhile if Members did not apply the standard in any case. Trade in beef was important, and BSE issues were among the concerns most frequently raised in the SPS Committee. The European Communities appealed to Members to make greater efforts to base their measures on the relevant OIE standards. Jordan was now accepting the OIE Code, as did the European Communities, and others should follow this example.

2.367. OIE explained that the BSE standards had been democratically adopted by OIE members, and were in fact very conservative. The OIE was considering removing the age requirement, and relaxing the restrictions on gelatine. There was still a wide margin of safety built into the standards, and it was worrying that there was a lack of willingness on the part of Members to apply them.

2.368. In June 2009, the European Communities again drew attention to restrictions on bovine meat and related products still imposed by many Members. The European Communities requested that unjustified and discriminatory restrictions be removed. The OIE Code stated that no bans were necessary even if a country reported cases of BSE. EC measures to control BSE were exemplary and went far beyond OIE requirements, and the European Communities urged Members to establish fair, non-discriminatory and transparent rules for the import of bovine products.

2.369. In October 2009, the European Communities recalled that they had repeatedly raised concerns about unjustified restrictions by some WTO Members on imports of bovine, ovine and related products allegedly in response to transmissible spongiform encephalopathy. Any measures should be based on the relevant international standards. While many were aligning their processes to OIE recommendations, other Members still required unnecessary certification, applied burdensome and lengthy procedures and discriminated between countries without scientific basis.

EC measures to eradicate and control BSE were comprehensive and offered every guarantee that EC exports were safe. The European Communities urged Members to fully take into consideration the latest OIE BSE guidelines and to establish fair, non-discriminatory and transparent rules.

2.370. In March 2010, the European Union reported that certain WTO Members still maintained unjustified import restrictions arguably to protect against Transmissible Spongiform Encephalopathies (TSE). The European Union urged Members to lift any unnecessary, disproportionate, or discriminatory restrictions which negatively affected EU exports. The OIE recommendations on BSE, which were reviewed in May 2009, included the possibility to import meat or even live animals from countries having a "negligible", "controlled", or "undetermined" BSE risk status, as long as the OIE rules on surveillance and control were followed. In addition, for certain products under specific conditions, such as de-boned skeletal muscle meat, milk and milk products, semen and embryos, there should be no BSE import requirements regardless of the BSE risk or the age of the cattle population of the exporting country, zone or compartment.

2.371. Switzerland supported the concerns raised by the European Union, stating that WTO Members should base their measures on the OIE recommendations and available data on BSE.

2.372. In June 2010, the European Union reported that certain WTO Members still maintained unjustified import restrictions to protect against TSE. The European Union urged Members to lift any unnecessary, disproportionate, or discriminatory restrictions which negatively affected EU exports. The European Union recalled that OIE had issued BSE standards based on scientific risk assessments and defined the conditions under which commodities could be safely traded. In May 2010, additional wording was inserted in Article 11.6 of the OIE Terrestrial Animal Health Code to clarify that, providing the commodities had been imported in accordance with those conditions, the status of the importing countries would not be affected. The European Union recalled the OIE recommendations, and observed that some Members had recently announced new measures which, without any scientific justification, deviated from OIE standards. The European Union urged Members to align themselves with the OIE process and to process applications from the European Union.

2.373. In October 2010, the European Union noted that restrictions of imports due to BSE remained of great concern and urged Members to lift any unnecessary, disproportionate and discriminatory restrictions. A number of WTO Members continued to impose unjustified import restrictions, such as allowing imports only from countries that had a negligible risk status according to the OIE classification or where no cases of BSE had been notified at all. There had been, however, some positive developments. The Philippines had announced the lifting of import restrictions on beef from most of EU member States, and Egypt was now allowing imports of de-boned beef from animals younger than 48 months. The European Union urged Members to quickly align their requirements with the OIE standards, and to establish fair, non-discriminatory, transparent and scientifically sound import requirements.

2.374. In March 2011, the European Union urged Members to lift unnecessary restrictions negatively affecting EU beef exports. The OIE standard highlighted that there should not be restrictions on some bovine products regardless of the BSE-risk status of the country. Unfortunately, several unjustified restrictions from Members only allowed imports from countries with a negligible BSE-risk assessment. In addition, there had also been a number of discriminatory practices and inconsistencies in the level of protection of some countries. The European Union urged Members to align their requirements with OIE standards and acknowledged the many countries that had started the assessment process to allow imports.

2.375. In June 2011, the European Union expressed concerns that several Members had not yet implemented the OIE standard on BSE and continued to impose bans or trade restrictions on EU beef products. These Members should either implement the OIE standard, or else share their scientific risk assessment. To date, the European Union had not seen any scientific justification for restrictions that went beyond the OIE standards. The European Union welcomed the implementation of the OIE standards by several Members, as well as the process begun by the United States and Australia, which would eventually allow the import of EU beef products. The European Union urged Members to fully take into account the OIE standards and establish fair, non-discriminatory, transparent, and scientifically based rules.

2.376. Canada was pleased to note that a large number of Members had approved the import of Canadian beef based on the OIE standards, and joined the European Union in asking Members to base their measures on OIE standards.

2.377. In October 2011, the European Union recalled that it had repeatedly raised concerns that several Members continued to impose bans or restrictive conditions on products from EU member States allegedly because of BSE, but without respecting the international standards as required by the SPS Agreement. The OIE standard on BSE was very well developed and provided details regarding the disease and conditions for the safe trade of bovine products. This meant that there was no need for additional risk assessments or for any trade restrictions at all on the well-defined safe products, such as deboned meat, regardless of the BSE risk status of the country. Despite having raised this same concern for a long time, no one had ever provided a scientific risk assessment that would justify any deviation from the international standard. In this regard, the European Union urged, in particular, China, Japan and South Korea to bring their requirements into line with the international standards and the SPS Agreement. The European Union welcomed recent developments in Australia and urged Australia to finalize this process quickly. The United States was also moving towards the adoption of comprehensive BSE rules and the European Union expected to see this process rapidly lead to US requirements fully in line with the OIE standard and a tangible outcome for trade. The European Union urged all Members to fully align their BSE-related requirements with the OIE standards and thus establish fair, non-discriminatory, transparent and scientifically justified requirements.

2.378. Japan and Korea both expressed their understanding of the EU concern and indicated that they would continue discussions on this issue in bilateral meetings. China indicated that it sought further information from the European Union in order to finish its risk analysis. There was a fruitful dialogue between both Members, and China called on the European Union to provide further information and maintain its close relationship with the Chinese scientific panel.

2.379. In March 2012, the European Union recalled that it had repeatedly raised concerns about the continued bans or restrictive conditions on bovine products from EU member States - allegedly because of BSE - that did not respect the international standards as required by the SPS Agreement. The OIE standard on BSE provided details regarding the disease and conditions for the safe trade of bovine products. Despite the long history of this concern, no Member had ever provided a scientific risk assessment that would justify any deviation from the international standard. The European Union urged, in particular, China, Japan and South Korea to bring their requirements into line with the international standards and the SPS Agreement, and Australia to quickly finalize its assessment process. The recent steps by the United States to align its import conditions with the OIE standard were welcomed, and a fast implementation of conditions in line with OIE standards was expected. The European Union urged all Members to fully align their BSE-related requirements with the OIE standards and thus establish fair, non-discriminatory, transparent and scientifically justified requirements.

2.380. Korea indicated its willingness to continue bilateral discussions on this issue.

2.381. China recalled its cooperation with the European Union, including in 2011 a joint BSE prevention and control training that resulted in a productive exchange on the relevant science and technology, and the standards of the OIE. Although no consensus was reached on certain issues, China would continue to bilateral discussions on the relevant technical issues.

2.382. Japan reported that it had already started discussions with the European Union, and that its Food Safety Commission Risk Assessment Body was requested in December 2011 to conduct a risk assessment on beef imports from France and the Netherlands. This risk assessment was conducted in a neutral and fair manner on the basis of scientific data. The Food Safety Commission would assess the risk of beef from the other EU member States when the necessary information was verified, including through onsite investigation and collection of data.

2.383. In July 2012, the European Union observed that many trading partners continued to impose unjustified bans or restrictions relating to BSE, although more than half of these countries did not benefit from official BSE classification by the OIE as did the EU member States. The European Union urged Korea to make tangible and predictable progress to bring its import conditions into line with the OIE standards. This request was particularly urgent as Korea had

opened its market to other trading partners which had the same BSE status as most of the EU member States. China was still keeping its market closed, claiming a lack of scientific information, although there was sufficient evidence regarding the EU BSE situation. The European Union requested China to provide the scientific risk assessment that would justify deviations from the OIE standard, or to immediately start the administrative procedures to implement the international standards. The European Union requested Japan to continue progress on pending applications so that trade could soon resume. The European Union noted the recent steps taken in the United States towards bringing its requirements into line with the OIE standards, and urged all Members to fully align with the OIE standards and establish fair, non-discriminatory, transparent and science-based rules.

2.384. China indicated that bilateral talks had taken place with the European Union on the BSE issue at various levels. China had repeatedly presented its views on BSE and emphasized that no international organization could deny countries the right to present their views based on science. A lot of work had been carried out by China on risk analysis regarding BSE.

2.385. Japan recalled that its food safety committee had started the risk assessment of beef from France and the Netherlands, and this was being discussed by experts. As for other EU member States, additional consultations were needed. Japan remained open for further co-operation with the European Union to resolve the issue.

2.386. Korea noted the on-going active communication between Korea and the European Union on the issue at the technical level. Additional discussions at the technical level were needed, and were in the interest of both sides.

2.387. In October 2012, the European Union observed that many trading partners continued to impose unjustified bans or restrictions relating to BSE, although some of these countries did not benefit from official BSE classification by the OIE as did the EU member States. The European Union once again urged Korea to make tangible and predictable progress to bring its import conditions into line with the OIE standards and requested China to quickly proceed with pending market access applications. The European Union welcomed the recent developments in Japan, where the risk assessment with regard to imports of beef had been submitted for public consultation. As a result of the scientific outcome, the European Union looked forward to beef exports being resumed in the near future. The European Union noted the recent steps taken in the United States and Australia towards bringing their requirements into line with the OIE standards, and urged all Members to fully align with the OIE standards and establish fair, non-discriminatory, transparent and science-based rules.

2.388. China indicated that the issues surrounding BSE were particularly sensitive and technical, involving not only the proper handling of animal health and husbandry, but also directly affecting China-EU co-operation and trade. China had provided thorough information to the European Union in relation to its scientific justification. Recognizing the importance of the issue particularly for exports from the Netherlands and Ireland, China had jointly organized co-operation activities with the European Union including technical exchanges among experts, seminars and technical visits. These exchanges focused on topics related to the science, technology and the OIE standards. However, no consensus had been reached on some issues. China would continue co-operation exchanges with EU technical experts in a scientific and pragmatic manner in order to solve the relevant technical problems. China had signed an MOU with Ireland for the establishment of a joint working group on BSE.

2.389. Korea indicated that it was actively engaged in bilateral discussions with the European Union, including discussions this same week, and would continue to have discussions with the European Union in this regard.

2.390. Japan reported that the risk assessment process was underway, specifically for beef from France and the Netherlands. Japan would continue close consultations with the European Union and its member States.

Trade restrictive measures due to the Schmallenberg Virus (STC 333)

Raised by:	European Union
Supported by:	Switzerland
Dates raised:	July 2012 (G/SPS/R/67, paras. 18-19)
Relevant document(s):	G/SPS/GEN/1161
Solution:	
Status:	Not reported
Date reported as resolved:	

2.391. In July 2012, the European Union stated that it had been fully transparent with stakeholders and third country partners since the detection of the Schmallenberg virus (SBV). Recent evidence confirmed that SBV had a minor impact on livestock production, and that the risk of infection to humans exposed to SBV was absent or extremely low. In May 2012, OIE's World Assembly of Delegates had concluded that the risk posed by commodities such as meat, milk, semen and embryos was negligible, that the conditions to consider the infection as an emerging disease were no longer met and that the disease did not meet the criteria for listing by the OIE. The European Union requested all countries that had adopted restrictive measures on EU products to remove those restrictions. Any WTO Member maintaining trade restrictions should be able to provide scientific justification for the measure and demonstrate that the measure was proportionate to the risk. These Members should also be able to demonstrate that they were free from SBV and that similar measures were also applied against other viruses of the Simbu serogroup, both in their own territory and when dealing with other trading partners. The European Union urged Members to withdraw all restrictions imposed on its exports due to the occurrence of Schmallenberg virus. More detailed information can be found in G/SPS/GEN/1161.

2.392. Switzerland indicated that it had also encountered restrictions on its exports of live animals and genetic material, even though SBV had never been detected in the country. Switzerland agreed that SBV should be treated in the same way as other viruses of the same group, and that SBV-related trade restrictions on exports of ruminants and their products were unjustified. Switzerland requested that such restrictions be withdrawn without delay.

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