WORLD TRADE ORGANIZATION

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(10-0766)

Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

Addendum

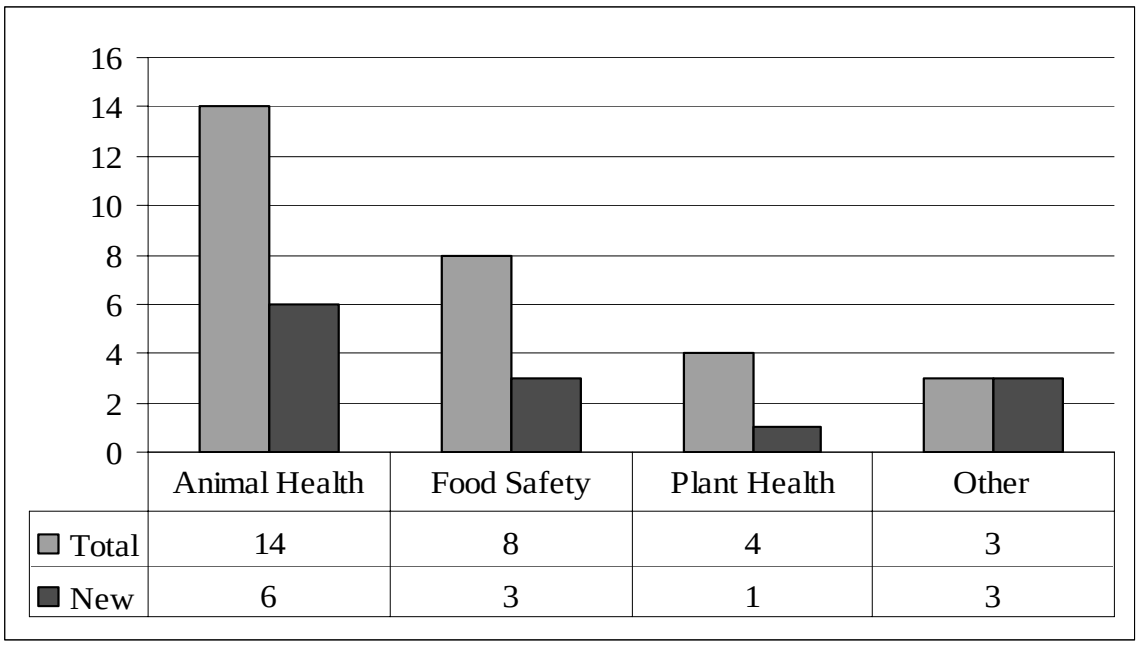
ISSUES CONSIDERED IN 2009

This part of document G/SPS/GEN/204/Rev.10 contains summary information regarding all issues which were raised in the SPS Committee for the first time during 2009, and issues which were previously raised but on which further discussions or activities occurred during 2009. This includes issues for which there was no substantive discussion in the Committee during 2009, 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 2009 (e.g., establishment of a dispute resolution panel on the issue).

A total of 29 specific trade concerns were brought to the attention of the Committee during 2009, of which 13 were new issues. Figure 1 shows all trade concerns raised or for which a resolution or other action was reported in 2009 by subject. Overall, eight issues (28 per cent) relate to food safety, four issues (14 per cent) relate to plant health and 14 issues (48 per cent) relate to animal health and zoonoses; this category includes issues such as transmissible spongiform encephalopathy (TSEs) that are also relevant for food safety. Finally, three issues relate to other concerns, namely, control, inspection and approval procedures. Figure 2 indicates that TSEs account for 36 per cent of animal health concerns raised in 2009, while issues related to foot and mouth disease account for 29 per cent, avian influenza for 14 per cent, and the remaining 21 per cent concern other animal health issues.

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

FIGURE 1 - TRADE CONCERNS BY SUBJECT – 2009



	Animal Health	Food Safety	Plant Health	Other
Total	14	8	4	3
New	6	3	1	3

FIGURE 2 - TRADE CONCERNS RELATED TO ANIMAL HEALTH & ZOONOSES - 2009

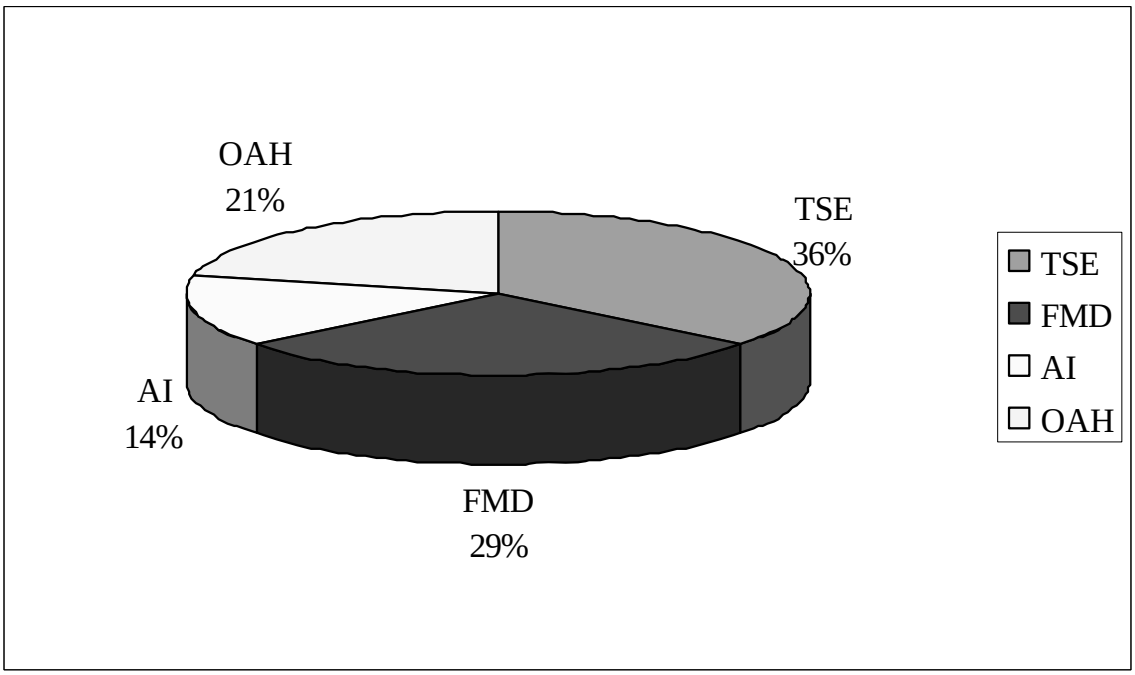
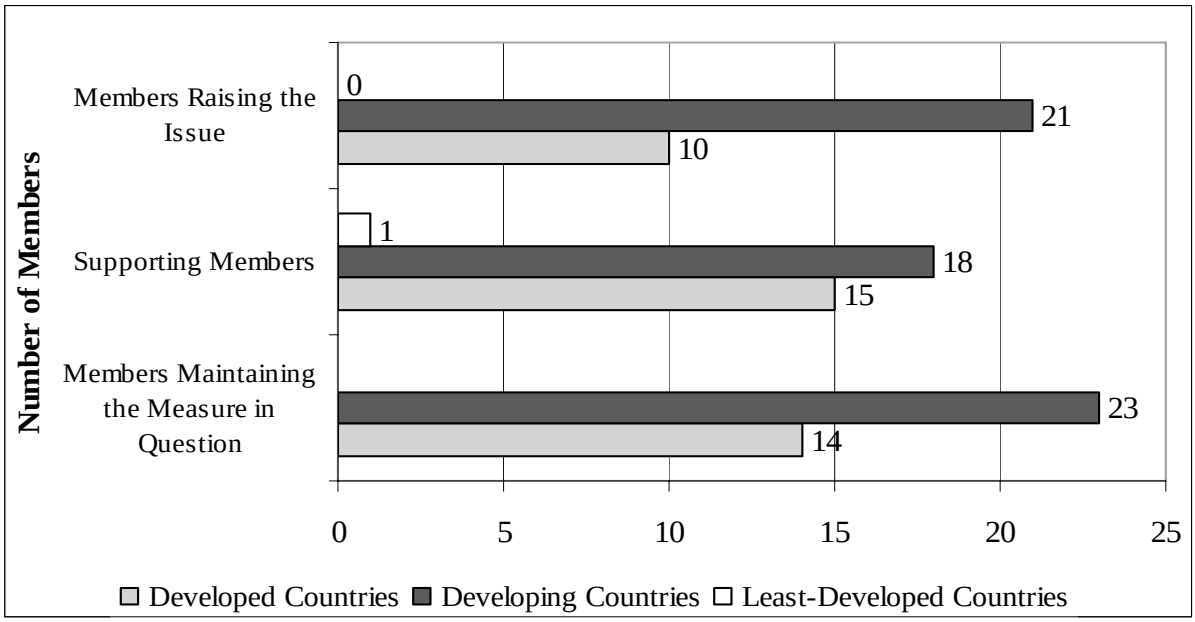


FIGURE 3 - PARTICIPATION OF MEMBERS - 2009



Of the 29 trade concerns discussed in 2009, in ten cases a developed country Member has raised the issue, compared to 21 cases for developing country members. On some occasions, developing and developed country Members have raised or supported the same issue. No cases were raised by a least-developed country Member in 2009. Developed country Members have supported another Member raising the issue in 15 cases and developing country Members have supported another Member in 18 cases. One least-developed country Member has supported a trade concern in 2009. In 23 cases, the measure at issue was maintained by a developing country Member, and in 14 cases it was maintained by a developed country Member. On some occasions the measure at issue was maintained by a contribution of developed and developing countries. No trade concerns regarding measures maintained by least-developed country Members were raised.

Three trade concerns raised in 2009 were put on the agenda solely to report that they had been resolved, and in one case, the Committee was informed that a partial solution had been found. One of the resolved issues related to food safety, and one to plant health protection. The partially resolved issue related to BSE, while the other resolved issue related to other animal health concerns.

Table 1 – Issues Raised for the First Time in 2009

Specific trade concern number	Member(s) Maintaining the Measure	Title	Status[2]
278	China	Hygienic standard for distilled spirits and integrated alcoholic beverages (G/SPS/N/CHN/111)	NR
279	Armenia, Bahrain, China, Gabon, Indonesia, Jordan, Suriname	Import restrictions on pork products due to Influenza A/H1N1	NR
280	Indonesia	New meat import conditions	NR
281	Colombia	Import restrictions on gelatine from bovine hides and head skin due to BSE requirements	NR
282	United States	Measures on food products containing meat, poultry or processed egg products	NR
283	Japan	Pesticide maximum residue levels (MRLs)	NR
284	United States	Rule on importation of wooden handicrafts from China	NR
285	United States	Import restrictions on fresh pork meat and beef	NR
286	Indonesia	Import restrictions on poultry meat	NR
287	South Africa	Import restrictions on fresh pork meat and beef	NR
288	Ukraine	Import measures on animals and animal products	NR
289	United States	Measures on catfish	NR
290	Bolivarian Republic of Venezuela	Suspension of inspection and delivery of plant and animal health certificates for imports from Colombia	NR

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

Table 2 – Other Items Considered During 2009

Specific trade concern number	Member(s) Maintaining the Measure	Title	Status[3]
185	India	Restrictions due to avian influenza	NR
193	Certain Members	General import restrictions due to BSE	PR
206	Greece, European Communities[4]	Inspection and testing procedures for imported wheat	NR
214	Panama	Inspection regime for food processing establishments	R
238	European Communities	Application and modification of the EC Regulation on novel foods	NR
257	United States	Import restrictions on cooked poultry products from China	NR
260	Chile	Requirements for quarantine treatment of aircraft	R
263	Mexico	Import restrictions on cooked and frozen meat	NR
267	Japan	Pesticide maximum residue level (MRL) enforcement system	NR
268	United States	Import restrictions on EC dairy products	NR
269	United States	Restrictions on apples	NR
270	Mexico	Import restrictions on rice	R
271	Mexico	Restrictions on imports of swine meat	NR
274	Korea	Korea's Livestock Epidemic Prevention Act	NR
275	Chinese Taipei	Maximum level for ractopamine	NR
277	Canada, Mexico, United States	NAPPO draft standard for ships and cargoes from areas infested with Asian Gypsy Moth	NR

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

[4] 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.

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ARMENIA

CONCERNS RELATED TO MEASURES MAINTAINED BY ARMENIA

Other concerns

279. Import restrictions on pork products due to Influenza A/H1N1 - Maintained by Armenia, Bahrain, China, Gabon, Indonesia, Jordan and Suriname

Raised by:	Mexico
Supported by:	Australia, Brazil, Canada, Dominican Republic, United States
Dates raised:	June 2009 (G/SPS/R/55, paras. 21-24), October 2009 (G/SPS/R/56, paras. 23-32)
Relevant document(s):	G/SPS/GEN/921, G/SPS/N/CHN/116, G/SPS/N/JOR/20, G/SPS/N/UKR/2
Solution:	
Status:	Not reported
Date reported as resolved:	

1. In June 2009, Mexico indicated concern over import restrictions on live pigs, pork products and sub-products due to Influenza A/H1N1. Mexico had complied with WTO and other relevant international recommendations since declaring the influenza outbreak on 23 April 2009. Document G/SPS/GEN/921 provided information on the actions taken by the Mexican Government to control the disease, as well as information on the virus and its form of dissemination. Mexico urged Members to notify the Committee of measures taken with regard to the virus.

2. The FAO and the OIE stated that there was no evidence of transmission of the virus through food, and Mexico was disappointed that Armenia, Bahrain, China, Gabon, Indonesia, Jordan, and Surinam continued to restrict the import of pork and pork products without any legal or scientific basis. Mexico was grateful to China, Indonesia and Jordan for holding bilateral consultations on the matter, and intended to hold bilateral consultations with other countries.

3. Australia, Brazil, Canada, the Dominican Republic and the United States supported Mexico's concern and Brazil provided further information in document G/SPS/GEN/922.

4. Indonesia thanked Mexico and the United States for the bilateral consultations and stressed Indonesia's commitment to protect its territory and industries from the virus.

5. China underlined the fact that China was the most populous nation in the world, and stressed the burden this virus could have on its public health system. Despite measures to prevent entry of the disease into China, there had still been instances of detection of the virus, which highlighted how contagious it was. The provisional measures imposed by China took into account its huge population, its susceptibility to the disease through human-to-human transmission, the fact that China was the world's biggest producer of pork and that pork was the most consumed meat product in the country. China had lifted the ban on pork treated to 70 degrees centigrade. Chinese experts would continue to work with other Members. China had notified the WTO of its measures.

6. Jordan stated that it had imposed only a temporary suspension on the transport and import of live swine, and that heat-treated pork products were exempt from the suspension. The temporary measures were under constant revision.

7. In October 2009, Mexico raised concerns that various Members, including China, Gabon, Indonesia and Jordan, continued to maintain unjustified restrictions on pork products due to the Influenza A/H1N1 virus occurrence in humans in Mexico in April 2009. Mexico had taken timely and effective measures to contain the virus and its spread to the rest of the world, yet measures had been taken against Mexican pork products without legal or scientific basis. Mexico requested trading partners imposing such measures to immediately withdraw these unnecessary trade barriers. Influenza A/H1N1 had not been detected in swine or poultry from Mexico, but only in humans. The OIE, WHO and FAO had made it clear that the risk of being infected by Influenza A/H1N1 through the consumption of pork meat was regarded as nonexistent. Mexico stressed the need for these international organizations, especially the OIE, to accelerate research and available scientific information on the risk of propagation of Influenza A/H1N1 from humans to animals and vice versa. Mexico expressed appreciation to those Members that had supported Mexico during the global pandemic and to Members that had fully withdrawn previously imposed trade restrictions.

8. Canada recalled that WHO had declared a human influenza pandemic, and that managing the public health impacts of this outbreak was critical. The trade measures adopted by several Members on swine, pork and pork products in response to the H1N1 influenza virus were without any scientific basis. The safety of pork meat was based on global evidence and supported by statements from FAO, OIE and WHO; detection of the pandemic H1N1 strain in animals was not contributing to the global human pandemic. Canada thanked those trading partners that had removed restrictions on imports from Canada, and expressed disappointment that other trading partners continued to maintain restrictions.

9. The European Communities stated that EC authorities continued to monitor closely the Influenza H1N1 virus incident in humans to ensure a high level of awareness in the veterinary and producing community, and to effectively monitor the animal population. The European Communities had an adequate surveillance plan in place should any outbreak occur. A statement from the OIE made it clear that the imposition of measures related to the import of pig and pig products from countries with human or animal cases was pointless and did not comply with international standards of the OIE and other competent international bodies. Despite the clear statements by the international organizations, several Members continued to impose unjustified bans or other unnecessary measures on pigs and pig meat from EC member States. Such trade measures did not address the real challenge, which was the transmission of the virus between humans.

10. The United States supported the interventions of Mexico, Canada and the European Communities. While some Members had lifted their bans on live swine, pork and pork products, they had instead imposed burdensome requirements without scientific justification. US agricultural products, including pork and live swine, were safe and trade restrictions on such products to prevent the spread of influenza were not supported by scientific evidence, nor recommended by the international public health, food safety and animal health bodies. The United States urged all WTO Members to comply with their WTO obligations and to follow the advice of the relevant international organizations not to impose any H1N1 related bans, or testing requirements, and to rescind those bans currently in place, so that trade in pork and pork products was not unnecessarily disrupted.

11. Australia, Brazil, Chile, Japan and New Zealand supported the interventions of Mexico, Canada, the European Communities and the United States.

12. Ghana requested that further information on Influenza A/H1N1 be released in order to stem public concern. He noted that many developing countries put up trade restrictive measures in response to the public reaction to the pandemic, and that most of these countries did not have the capacity to do a proper risk analysis of the pandemic.

13. OIE stated that Influenza virus A/H1N1 was being spread effectively from human to human, but that it was important to maintain surveillance in animals. OIE encouraged Members to report cases of H1N1 found in swine associated with the human disease, and recalled that trade in pork and pork meat products did not represent any risk. OIE also stated that it would continue to monitor the event, in cooperation with other organizations.

14. The Secretariat acknowledged that for some WTO Members, especially developing countries, it was not easy to identify where to obtain information when a situation like the pandemic H1N1 arose. The Secretariat pointed out the usefulness of bringing this kind of information to the Committee. Regarding the H1N1 pandemic, international organizations including WHO, FAO and OIE, had provided information to the public through several joint statements. From the early stages of the pandemic, the international organizations clarified that there was no justification for measures to restrict trade. Due to concerns about implications the pandemic could have on trade, WTO had decided to join one of the statements. Finally, the Secretariat pointed out the need to consider ways to ensure that in this kind of situation information was easily accessible to the public and to the authorities.

15. China stated that following the outbreak of Influenza A/H1N1 in April 2009, China had adopted an emergency provisional measure to prevent the introduction of the virus into the country. The measure, notified to WTO, was in line with the SPS Agreement, especially Article 5.7, and other principles of the Agreement had also been respected by applying regionalization treatment to affected countries and regions, and lifting the ban on cooked pork products based on available scientific information, ensuring the measure was the least trade restrictive. China was aware of the concerns on the issue and was actively seeking additional information for a more objective assessment of the risk. China welcomed any input or scientific research that could help finalize the assessment. China would reconsider its provisional measure according to the conclusion of the assessment and would inform its trading partners of any changes.

16. Jordan stated that the suspension of imports of swine products had been lifted. The concerns of Members regarding the temporary suspension of imports of live swine had been included on the agenda of the technical standards committee of the Ministry of Agriculture for the purpose of revising the measure.

BAHRAIN

CONCERNS RELATED TO MEASURES MAINTAINED BY BAHRAIN

Other concerns

279. Import restrictions on pork products due to Influenza A/H1N1 - Maintained by Bahrain, Armenia, China, Gabon, Indonesia, Jordan, Suriname (See item 279, page 1)

BOLIVARIAN REPUBLIC OF VENEZUELA

CONCERNS RELATED TO MEASURES MAINTAINED BY THE BOLIVARIAN REPUBLIC OF VENEZUELA

Other concerns

290. Suspension of inspection and delivery of plant and animal health certificates for imports from Colombia

Raised by:	Colombia
Supported by:	
Dates raised:	October 2009 (G/SPS/R/56, para. 213)
Relevant document(s):	Raised Orally. Subsequently circulated in G/SPS/GEN/983
Solution:	
Status:	Not reported
Date reported as resolved:	

17. In October 2009, Colombia informed the Committee of Venezuela's recent decision to stop issuing SPS certificates for certain goods coming from Colombia. In response Venezuela requested that Colombia present the details of their concern and assured the Committee that they would deal with this matter on a bi-lateral basis. Information from Colombia was subsequently circulated in G/SPS/GEN/983.

CANADA

CONCERNS RELATED TO MEASURES MAINTAINED BY CANADA

Plant Health

277. NAPPO draft standard for ships and cargoes from areas infested with Asian Gypsy Moth - Maintained by Canada, Mexico and the United States

Raised by:	China
Supported by:	Indonesia, Japan, Korea
Dates raised:	October 2008 (G/SPS/R/53, paras. 112-120), February 2009 (G/SPS/R/54, paras. 128-135), June 2009 (G/SPS/R/55, 136-140), October 2009 (G/SPS/R/56, paras. 151-156)
Relevant document(s):	G/SPS/GEN/880
Solution:	
Status:	Not reported
Date reported as resolved:	

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

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

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

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

22. Canada supported the United States and stated that previous incursions of AGM had caused serious and costly problems for Canada. Mexico supported the interventions made by the United States and Canada.

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

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

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

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

27. In February 2009, the representative of China reported that it had maintained good communications with officials from NAPPO countries. The draft standard had been revised and was undergoing a second comment soliciting process. Technical expert groups from NAPPO had been sent to China, Japan and Korea for exchange of information, including on risk assessment. China welcomed the open and transparent working procedures of the NAPPO countries. China requested NAPPO countries not to adopt the standard until comments and concerns were taken into account. In addition, China recalled the provision in Article 2.2 of the SPS Agreement SPS measures must be based on scientific evidence.

28. China also reported that the occurrence of AGM had been significantly reduced in its territory, and joint surveillance with the United States in some Chinese ports showed that no AGM was detected. China further recalled the SPS Agreement provision for the least trade-restrictive measure to be applied. China acknowledged the legitimate objective pursued by NAPPO, but any SPS measure must comply with the relevant provisions of the SPS Agreement.

29. Japan supported the statement by China, and also appreciated NAPPO's transparent and open procedures. Japan underlined that the proposed standard could result in a huge impact on the trade between Japan and NAPPO countries. Japan was undertaking consultations with its relevant stakeholders before submitting its comments to NAPPO, and requested that the draft standard on AGM not to be adopted until its comments were duly considered.

30. Indonesia reported that it had similar concerns on the draft NAPPO standard on AGM, which was a pest listed in its regulation for quarantine measures. Indonesia supported the objectives of RSPM 33, but further studies were needed on the possibility of the insects to survive long distance journeys from Indonesia to North America in cargoes. Lastly, Indonesia stated that it followed the recommendations and treatments provided in ISPM 15 in all of its shipping from Indonesia to North American countries.

31. Korea shared the concerns raised by China and Japan, and expressed regret that the draft standard on AGM did not consider the low prevalence of this pest in Korea. Korea argued that the draft standard might pose an excessive restriction on trade, and did not consider other less-restrictive treatments that were available. Korea highlighted the need for scientific justification, which it had recently conveyed to NAPPO.

32. Canada underlined that the NAPPO measure on AGM aimed at controlling a real risk to North American forests, which had been affected by AGM in the past resulting in a multi-million US dollar process for eradication. NAPPO members were aware of the trade impact and the costs associated with control measures, and it was in NAPPO members' interest to keep shipping costs low for both imports and exports. The draft regional standard had been developed to be no more trade restrictive than necessary to effectively address the risks associated with AGM. Regular meetings with trading partners had been held, including visits from NAPPO members' experts to China, Japan and Korea. The results from these consultations would be taken into account in the elaboration of the regional standard.

33. The United States affirmed that AGM was a highly invasive pest, not present in North America, and which had been found on a number of occasions in port areas in North America. The NAPPO Pest Risk Assessment Panel had conducted a risk assessment which concluded that NAPPO members should adopt specific phytosanitary measures to prevent the introduction of AGM in North America. This risk assessment was available upon request, and was the basis for the draft NAPPO standard for AGM. The draft standard had not been adopted by the NAPPO Executive Committee at its October 2008 annual meeting, due to the number of public comments which were still being reviewed. In February 2009, a NAPPO delegation had held a constructive meeting with Chinese regulatory officials to discuss the draft standard. Similar cooperative initiatives were being undertaken with Japan and Korea. The United States assured its trading partners that the applied phytosanitary measures would be consistent with the WTO rights and obligations.

34. Mexico corroborated the statements by the United States and Canada, and indicated that Mexico attached high importance to the topic. Mexico looked forward to continuing to work with concerned trading partners to mitigate any potential risk of introduction of AGM into North America.

35. Chile inquired whether phytosanitary standards developed by regional organizations were considered international standards or regional standards according to the SPS Agreement.

36. The Secretariat clarified that the SPS Agreement makes clear reference to international standards for plant health as being the ones developed under the auspices of the secretariat of the IPPC in cooperation with regional organizations operating within the framework of the IPPC. Therefore, standards developed by regional organizations alone were not likely to be considered by the SPS Agreement as an international standard. If WTO Members applied or incorporated those regional standards into their domestic legislation, however, then the SPS Agreement would apply.

37. In June 2009, China observed that the draft regional standard developed by NAPPO on AGM had a tremendous potential to impact trade between China and countries in North America. The draft standard pertained to all ports in China, whereas the AGM had historically been found only in the north-eastern part of China. The occurrence of the AGM in China had been reduced significantly, and a joint survey conducted by China and the USDA in 2008 identified no occurrence of AGM in China. China welcomed the open and transparent working procedure of the NAPPO countries, and noted that it had sent written comments on the revised draft standard at the end of February 2009. China stressed the need for scientific justification for the proposed measure, and requested that different geographic and climatic characteristics be taken into account. China invited NAPPO and its member countries to participate in a workshop in July that would highlight the preventive and control measures it had taken. China was concerned with the operability of the current draft standards, especially with regard to certification and inspection requirements, noting the impossibility of checking ships and cargo at night, as many ships departed before dawn. Moreover, as numerous non-plant related cargo such as cars and steel also had to be inspected, it would lead to an increase in costs, thus creating a barrier to trade.

38. Japan supported the statement by China, and stressed that the proposed standard could have a huge impact on international trade. Japan had submitted its comments at the end of April and requested that the revised draft standard not be adopted until its comments were duly considered. Korea and Indonesia shared the concerns raised by China and Japan and also requested that Member's concerns be taken into account.

39. Canada underlined that the NAPPO standard aimed at controlling a real risk to North American forests, which had been affected by AGM in the past with multi-million dollar costs for eradication. Since March 2009, six ships had been found with AGM egg masses on board. NAPPO members were aware of the trade impact and the costs associated with control measures, and it was in their own interest to keep shipping costs low for both imports and exports. The draft regional standard had been developed to be no more trade restrictive than necessary to effectively address the risks associated with AGM. Comments of all stakeholders would be taken into account when the standard was finalized in August 2009. Once the regional standard had been adopted, Canada, the United States and Mexico would work in a coordinated approach to consider direct impacts of the standard on trade.

40. The United States affirmed that AGM was a highly invasive pest, not present in North America, and which had been found on a number of occasions in port areas in North America. The regional standard was based on a risk assessment which was available upon request. The United States had been working diligently along with Mexico and Canada to solicit scientific and technical inputs from concerned countries. NAPPO experts travelled to China, Japan and Korea in February 2009 to consult directly with regulatory officials, leading to constructive inputs. In June 2009, the NAPPO forestry panel reviewed the comments received and a revised draft of the standard would be made available in August 2009. The United States assured its trading partners that the phytosanitary measures applied would be consistent with WTO obligations.

41. Mexico corroborated the statements by the United States and Canada. Mexico looked forward to continuing to work with concerned trading partners to mitigate any potential risk of introduction of AGM into North America.

42. In October 2009, China noted that this was the fourth time that it was raising this concern in an SPS Committee meeting. The "Guidelines for Regulating the Movement of Ships and Cargo from Areas Infested with the Asian Gypsy Moth" had been approved by the North American Plant Protection Organization (NAPPO) on 10 August 2009 with immediate effect. The Guidelines identified risk management options for the movement of ships and cargo from areas infected with Asian Gypsy Moth, such as inspection, systemic approaches, pest-free areas, certification, rejection of the shipment, refusal of entry etc. The guideline did not mention specific countries but stated that the pest was "present in temperate Asia, has been reported east of the Ural Mountains, but no definitive distribution information in eastern Europe is available." China reiterated its serious concerns regarding this standard, and the hope that the member countries of NAPPO would take these concerns and comments into consideration when developing specific implementation actions, in order to minimize the adverse impact of their SPS measures on international trade.

43. Korea supported China's intervention and noted that this standard was adopted without any critical reflection of concerned parties' comments, although this standard could have a negative impact on the international trade. Korea therefore asked NAPPO member countries to implement the standard in a manner which would minimize the negative impact on trade in accordance with the SPS Agreement and the relevant international standard. These measures should reflect the role and responsibility of the exporting and importing country in a balanced manner.

44. Japan supported the views of China and Korea, and intended to consult with NAPPO and its member countries on the implementation of this standard to ensure that the measure was economically and technically feasible and not more trade restrictive than necessary.

45. Canada noted that the NAPPO measure on AGM was being put in place to control the risk to North America's forests. NAPPO representatives had been diligent in ensuring that all concerned stakeholders, including the shipping industry, had been consulted. The standard would be phased in with full implementation taking place in March 2012. The measure had taken all possible SPS measures into consideration and had been developed to be no more trade restrictive than necessary to manage the risk. Furthermore, all NAPPO member countries were working with affected Members to come up with appropriate implementation plans and a number of Members had already participated in these meetings. The risk of introduction of AGM was acute; in 2009 Canadian authorities had detected egg masses on ten ships travelling from the region, and each egg mass contained thousands of eggs.

46. Chile questioned whether this issue belonged under the agenda item related to the monitoring of the use of international standards. Was it appropriate for the SPS Committee to raise this matter with NAPPO since it was not one of the three sisters? Chile suggested that this types of issues could addressed under specific trade concerns.

47. IPPC indicated that although regional plant protection organizations were recognized in the IPPC convention and often the regional organizations deposited regional standards with the IPPC, this did not make these an international standard. The IPPC work programme included consideration of the need for an international standard on the movement of pests via ship containers and vessels. In such situations, the IPPC might use a regional standard as the basis for the development of an international standard.

CHILE

CONCERNS RELATED TO MEASURES MAINTAINED BY CHILE

Animal Health

260. Requirements for quarantine treatment of aircraft

Raised by:	Argentina
Supported by:	
Dates raised:	October 2007 (G/SPS/R/46, paras. 16-17), June 2009 (G/SPS/R/55, para. 55)
Relevant document(s):	G/SPS/N/CHL/253
Solution:	In June 2009, Argentina reported that its concern had been resolved.
Status:	Resolved
Date reported as resolved:	23 June 2009

48. In October 2007, Argentina indicated that in April 2007, Chile notified the quarantine treatment of aircraft landing in Chile from areas with high levels of pests (G/SPS/N/CHL/253). Fumigation with pesticides and insecticides was required every time the aircraft required cleaning. This treatment could prevent the export of live bees from Argentina via any aircraft which landed in Chile. Argentina had conveyed their concerns to the Chilean focal point to ensure that these measures not unduly affect Argentine exports, and more specifically, that live bees not be killed by the fumigation.

49. Chile clarified that the measure in question corresponded to the updating of a law that had been in place since 2006, and that the amendments proposed were an attempt to facilitate rather than hinder trade. A procedural manual had been developed that included clear technical specifications to ensure proper fumigation of the aircraft. Regarding benign insects such as bees, the concentrations of insecticides would be far less than what was specified in the past. Although there was no obligation to notify this measure, Chile had chosen to demonstrate implementation of the principles of transparency by going beyond what was required. The measure had not yet entered into force and Chile was reviewing comments received from other countries. Chile would have preferred to see this issue addressed bilaterally, and informal meetings with Argentina had proceeded positively.

50. In June 2009, Argentina reported that its concern had been resolved. Chile confirmed that the issue had been clarified.

CHINA

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINA

Food safety

278. Hygienic standard for distilled spirits and integrated alcoholic beverages (G/SPS/N/CHN/111)

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

51. In February 2009, Mexico indicated that China's notified regulation 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.

52. 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.

53. 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.

54. 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 ongoing technical discussions.

55. 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 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.

56. 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.

Other concerns

279. Import restrictions on pork products due to Influenza A/H1N1 - Maintained by China, Armenia, Bahrain, Gabon, Indonesia, Jordan and Suriname (See item 279, page 1)

COLOMBIA

CONCERNS RELATED TO MEASURES MAINTAINED BY COLOMBIA

Animal Health

281. Import restrictions on gelatine from bovine hides and head skin due to BSE requirements

Raised by:	Brazil
Supported by:	
Dates raised:	June 2009 (G/SPS/R/55, paras. 27-29)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

57. In June 2009, Brazil referred to Chapter 11.6.1 of the OIE Terrestrial Animal Health Code according to which there was no scientific evidence for banning imports of gelatine derived from cattle hides and skins, even when derived from the cattle's head or neck. However, item 14.10.1 of the Andean Communities Resolution number 1130 stated that independently from the BSE status of the country, the imported gelatine must be prepared from hides and skins, excluding that derived from heads and necks, which was not in accordance with OIE provisions. Brazil had withdrawn a previous request to include this concern on the agenda of the Committee, following bilateral consultations with Colombia in February 2009, as the Colombian authorities had indicated that the Andean Committee on Animal Health would review and modify this provision. However, Brazil had not received notice of modification of the notification, and requested Colombia and other Andean countries to revise their national requirements without waiting for the Andean legislative process so as to immediately allow bilateral trade of gelatine. Brazil also inquired whether there was a timetable to review the legislative restrictions on gelatine exporters.

58. Colombia responded that its government was working with Andean Community authorities to resolve the issue raised by Brazil. Although there was no timetable to review the restrictions, Columbia was willing to provide information bilaterally on the actions underway.

59. OIE confirmed that gelatine produced from skins and hides was a safe commodity with regard to BSE. At the recent OIE General Assembly, some additional provisions with regard to gelatine manufactured from bones had been agreed, thus extending the range of products which were considered as safe for the production of gelatine.

EUROPEAN COMMUNITIES

CONCERNS RELATED TO MEASURES MAINTAINED BY THE EUROPEAN COMMUNITIES

Food safety

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

Raised by:	Canada
Supported by:	
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 32-33), October 2005 (G/SPS/R/39, paras. 222-223), February 2006 (G/SPS/R/39, paras. 222-223), October 2008 (G/SPS/R/53, para. 161), February 2009 (G/SPS/R/54, paras, 31-32), June 2009 (G/SPS/R/55, paras. 48-49)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

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

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

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

63. In October 2008, Canada again raised the issue of Greece's excessive inspection and testing requirements of imported cereals, including Canadian wheat exports, for the presence of genetically modified organisms even though genetically modified wheat is not commercially produced in Canada. The issue had been raised for the fourth time, and the matter had not been resolved. The European Communities stated that although there was harmonization among the EC member States, there was a

degree of differences in the testing regimes of different countries. The European Communities would make every effort to resolve this issue.

64. In February 2009, Canada recalled that this concern was mainly related to the excessive inspection and testing requirements for GMOs in imported cereals. Not only were these requirements onerous, but consignments could be held for up to seven working days, which unnecessarily imposed additional costs and delays. This was done despite repeated assurances from Canada that GM wheat was not approved for commercial production in Canada or, to the best of Canada's knowledge, anywhere in the world. This measure was clearly discouraging imports of cereals from non-EC countries and was having an adverse effect on trade. Canada considered these measures to be contrary to Greece's obligations under the SPS Agreement. Greece had not given any indication of its willingness to make further progress in resolving this issue although Canada had raised the issue bilaterally several times with Greece and with the European Communities. In September 2008, Canada's Ambassador to Greece had requested a meeting with the former Greek Minister of Rural Development and Food, but had received no response. An early meeting with the new Minister of Rural Development and Food had been requested with the hope of resolving this longstanding issue, given that this remained a serious concern for the Government of Canada. The European Communities recalled that this issue fell under the competence of the European Communities. The European Communities understood Canada's impatience and frustration. Each EC member State implemented the harmonized system, but sometimes there were differences in the implementation. The European Communities had intervened on a number of occasions to avoid trade disruptions, but even the threat of disruptions could in and of itself be disruptive. The European Communities had highlighted to the Greek authorities that a number of matters had to be resolved, and would try to find a satisfactory solution.

65. In June 2009, Canada expressed concerns at Greece's testing and inspection requirements of imported cereals for genetically modified organisms. These requirements were onerous, with consignments being held for a period of up to seven working days following the taking of samples for testing, thus imposing additional costs and delays. Canada's wheat exports to Greece had fallen from almost Can$49.5 million dollars in 2004, to only Can$8.8 million dollars in 2008, with no exports in 2005 and 2006, partly due to these measures. GM wheat was not approved for commercial production in Canada. These measures were not based on any risk assessment and were contrary to the SPS Agreement. At a meeting on 6 May 2009 between the Greek Minister of Rural Development and Food and Canada's Ambassador to Greece, Canada was informed that a new decision which would reduce testing requirements to five per cent was being developed. Greece had agreed to provide more details in response to a letter from Canada's Minister for Agriculture and Agri-food concerning this issue. Canada looked forward to receiving a timely response from Greece in order to bring this issue to a conclusion.

66. The European Communities acknowledged this problem and stated that a number of legal issues had been raised in this regard within the EC framework in parallel with these bilateral efforts. The European Communities was awaiting a reply from Greece and was looking forward to a solution to the problem.

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

Raised by:	Colombia, Ecuador, Peru
Supported by:	Argentina, Benin, Bolivarian Republic of Venezuela, Bolivia, Brazil, Chile, Costa Rica, Cuba, El Salvador, Honduras, India, Mexico, Paraguay, Philippines, Uruguay

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)
Relevant document(s):	G/SPS/GEN/681, G/SPS/GEN/699, G/SPS/GEN/700, G/SPS/GEN/713, G/SPS/GEN/714, G/SPS/GEN/733, G/SPS/GEN/735
Solution:	
Status:	Not reported
Date reported as resolved:	

67. 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.

68. Colombia further stated to be 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.

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

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

71. Greater transparency and clarity in the procedures and definition, giving credit to a safe consumption history of food in the country of origin; requirements, tests, and procedures in proportion with the nature of the foods concerned and the risks they could imply for consumers; and all exotic traditional products to remain in the public domain and no private entity to be granted privileged access to the European market.

72. 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.

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

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

75. 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.

76. 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).

77. 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.

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

79. 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.

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

81. 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.

82. 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.

83. 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.

84. 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.

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

86. 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.

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

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

89. 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.

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

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

92. 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.

93. 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.

94. In October 2009, Peru recalled that the entry of traditional exotic products to the European 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 their 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.

95. Brazil, Colombia, Ecuador, and Mexico supported Peru's concerns regarding the EC regulation on Novel Foods.

96. 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.

GABON

CONCERNS RELATED TO MEASURES MAINTAINED BY GABON

Other concerns

279. Import restrictions on pork products due to Influenza A/H1N1 - Maintained by Gabon, Armenia, Bahrain, China, Indonesia, Jordan and Suriname (See item 279, page 1)

INDIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Animal Health

185. Restrictions due to avian influenza

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

109. 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.

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

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

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

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

114. In June 2008, the European Communities reported that India continued to apply a ban on the imports of poultry, swine, and their products, from areas that had reported outbreaks of either low - or high-pathogenic avian influenza in wild bird populations only. In addition, India restricted the importation of products also from areas where LPAI had been found, disregarding the OIE standards which assured the complete elimination of risks and allowed products to be safely traded. The ban on imports of pigs and 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.

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

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

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

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

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

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

120. 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.

121. 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.

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

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

124. In February 2009, the United States expressed disappointment that India continued to maintain its emergency measures prohibiting a wide range of products because of avian influenza without scientific evidence or a risk assessment. Appropriate measures for avian influenza did not include trade restrictions on swine or swine products, trade measures related to notifiable avian influenza in wild birds, or prohibitions on heat-treated products. In addition, Members should distinguish between highly pathogenic and low pathogenic avian influenza. The US representative reminded the Committee that India had proposed a meeting at a technical level to discuss the issue at the October 2008 Committee meeting and that the United States welcomed their suggestion. However, the United States on numerous occasions had asked for a copy of India's scientific justification as a basis for such technical discussions, but had not received the documents to date. The United States again urged India to present its risk assessment so that a technical discussion could be scheduled.

125. The European Communities welcomed the recent lifting by India of some avian influenza-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 avian influenza.

126. India explained that since many countries reported avian influenza, 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 avian influenza measures, including import bans. India had banned imports of poultry and swine products from countries reporting both low and highly pathogenic avian influenza, 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 avian influenza 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 avian influenza measures. As a result, trade restrictions on certain products from avian influenza-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 appropriate authorities.

127. OIE indicated that avian influenza 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 avian influenza standards and raise any concerns at the OIE. The OIE clarified that there were a number of publications on avian influenza, some by the OIE, some by FAO, some joint. For international trade, the relevant standard was that in the OIE Terrestrial Animal Health Code.

128. In June 2009, the European Communities stated that it 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 influenza, 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 avian influenza 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.

129. 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 avian influenza.

130. India stated that the ban on pork products was taken to prevent an outbreak of avian influenza. 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 influenza. 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 avian influenza, because the avian influenza virus could mutate in the pigs, as both human and avian influenza 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.

131. 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.

132. In October 2009, the European Communities stated that India still did not base its requirements on OIE standards, and still maintained a ban on live pigs, pig semen and products such as feathers for reasons of avian influenza. 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 avian influenza. Although India had announced that unprocessed meat would no longer be blocked for reasons of

avian influenza, 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.

133. The United States stated that India's ban and avian influenza import requirements were not in line with the OIE standards. India continued to prohibit the import of pigs and a wide range of avian species and avian products without a risk assessment that supported the measures. 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.

134. India stated that the notification issued in 28 August 2009 prohibited the import of poultry and poultry products and live pigs from countries reporting both highly pathogenic and low pathogenic avian influenza. India's technical experts had observed that symptoms of highly pathogenic avian influenza were noticeable and the infection could be controlled, but low pathogenic avian influenza might pass unnoticed and the control of the infection could become difficult. Additionally, there was no data available confirming that low pathogenic avian influenza could not mutate into highly pathogenic avian influenza. Imports were currently allowed based on the avian influenza 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 avian influenza subject to a conformity assessment. Comments received from trading partners on this notification were under examination.

135. The 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.

INDONESIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDONESIA

Animal Health

280. New meat import conditions

Raised by:	European Communities
Supported by:	
Dates raised:	June 2009 (G/SPS/R/55, paras. 25-26), October 2009 (G/SPS/R/56, paras. 44-45)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

136. In June 2009, the European Communities stated that Indonesia's import restrictions with regard to BSE were unjustified and higher than OIE standards. Indonesia prohibited imports from Members with an undetermined or controlled BSE risk, as well as products which the OIE had identified as safely tradable irrespective of the BSE risk status of the exporting country. The European Communities welcomed Indonesia's new legislation incorporating the principle of regionalization, but questioned the justification for limiting its applicability only to foot and mouth disease, which was not in line with the OIE Terrestrial Animal Health Code. It appeared that none of the EC comments were taken into account when the new import conditions came into existence in April 2009. The European Communities requested Indonesia to accept regionalization commitments and to provide clear scientific justification for measures which went beyond the OIE standards.

137. Indonesia expressed willingness to further discuss the matter during bilateral consultations.

138. In October 2009, the European Communities stated that the concern related to Indonesia's import regime was first introduced in April 2009, and related to the burdensome accreditation process and the non-respect of international standards in many areas, mainly related to BSE and other diseases for which Indonesia imposed unnecessary and unjustified measures. The European Communities had communicated its concerns in writing and at various bilateral meetings with Indonesia. It had requested a justification for the deviation from international standards, as well as Indonesia's risk analysis, but no answer had been provided.

139. Indonesia stated that its Agriculture Regulation Number 20 of 2009 concerning the import and distribution of carcass meat and/or edible offal complied with international standards. Since 4 September 2009, the Agriculture Ministry Decree 3229 allowed the importation of de-boned meat from Ireland, and the establishment approval procedure followed a risk assessment for BSE on a country-by-country basis. Constructive commitments had been made in October 2009 between Indonesia and the European Communities in regards to this issue.

286. Import restrictions on poultry meat

Raised by:	Brazil
Supported by:	
Dates raised:	October 2009 (G/SPS/R/56, paras. 14-15)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

140. In October 2009, Brazil raised concerns about restrictions on Brazilian poultry meat due to Indonesian legislation that was not in accordance with international standards. Although Indonesia claimed to accept the principle of regionalization, it had not presented any sanitary reasons for the restrictions on Brazilian poultry meat. Throughout 2009, Brazil and Indonesia had consulted on this trade barrier and Brazil had provided information showing that its poultry meat and by-products complied with the relevant international standards and even with Indonesia's regulations. Brazil requested the sanitary justification for the restrictions, or that the restrictions be lifted.

141. Indonesia expressed his authorities willingness to have bilateral meetings with Brazil to find solutions on the issue.

Other concerns

279. Import restrictions on pork products due to Influenza A/H1N1 - Maintained by Indonesia, Armenia, Bahrain, China, Gabon, Jordan and Suriname (See item 279, page 1)

JAPAN

CONCERNS RELATED TO MEASURES MAINTAINED BY JAPAN

Food safety

267. Pesticide maximum residue level (MRL) enforcement system

Raised by:	United States
Supported by:	China, New Zealand
Dates raised:	June 2008 (G/SPS/R/51, paras. 15-17), October 2008 (G/SPS/R/53, paras. 15-18), February 2009 (G/SPS/R/54, paras. 33-34)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

142. In June 2008, the United States noted that in May 2006, Japan's Ministry of Health, Labour and Welfare (MHLW) imposed a testing and sanctions policy that involved increased testing (30 per cent country-wide) after the occurrence of one MRL violation. If a second violation involving the same pesticide and commodity occurred within one year of the first, a 100 per cent test-and-hold policy was enforced on all exports of that commodity from that country. The United States believed that the sanctions under inspection and control programmes should be limited to the violating supplier as long as there was no indication that a country-wide problem existed. The United States considered that this would be the least trade restrictive measure and the most appropriate policy. This was also the policy applied by the United States itself.

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

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

145. In October 2008, the United States again raised its concerns about Japan's enforcement system for MRLs. In particular, there was no reason for Japan to employ country-wide sanctions

where there was no indication of a country-wide problem. In cases of individual company violations, sanctions should be applied at the individual company level.

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

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

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

149. In February 2009, the United States indicated that Japan's MRL enforcement policy imposed on US specialty products continued to be of great concern. This policy imposed industry-wide testing for pesticides after one MRL violation by a single party. If a second violation involving the same pesticide and commodity occurred within one year, a 100 per cent test-and-hold policy of all exports from that country was enforced.

150. Japan indicated that the MRLs had been developed based on scientific assessments, taking into account Codex standards, and that they were applied both to domestic and imported products. When there were instances of non-compliance, inspections were strengthened, taking into account various factors, on a case-by-case basis. Japan had confirmed that the US regulation on pesticide residues was equivalent to Japan's. Where US MRLs were equal to or stricter than Japan's, the enhanced inspections were limited to the specific exporter. In cases where the US MRL was higher than Japan's, Japan needed to ensure that US exporters as a whole complied with Japan's MRL. Such evidence should be provided by the US Government itself, or in some other way. In fact, Japan's inspection records showed that multiple violations had been detected by the enhanced inspections after an initial violation. This suggested that responsibility of the exporter alone did not always ensure compliance with Japan's MRLs. Japan needed a mechanism to ensure that exporters complied with Japan's MRLs, e.g. a compliance programme established by industry or information on their compliance history. If the United States provided such information, it would enable Japan to consider limiting the enhanced inspection to the specific exporter. Japan hoped to continue technical discussions with the United States.

283. Pesticide maximum residue levels (MRLs)

Raised by:	Brazil
Supported by:	China
Dates raised:	June 2009 (G/SPS/R/55, paras. 36-38), October 2009 (G/SPS/R/56, paras. 50-52)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

151. In June 2009, Brazil noted that Japan imposed stricter pesticide residue limits than Codex, because it required industry-wide testing for one MRL violation and a 100 per cent test-and-hold policy in case a second violation involving the same pesticide and commodity took place within one year. Brazil had difficulty in exporting green coffee beans to Japan, as Japan's MRL was 30 times lower than that of Codex. In a bilateral meeting, Japan had stated that the revision of these MRLs would take place within two years. Brazil had requested an interim transitional mechanism as trade in coffee was worth over US$300 million per year. Brazil exported coffee to over 100 countries and requested Japan to modify their procedures in line with international standards, or provide a transitional period while the Japanese authorities decided on the revision of the requirement without any negative impact on Brazilian coffee exports.

152. China supported Brazil's concern, and requested that Japan's temporary standards be based on scientific justification and a risk analysis. These measures had been applied for a period of three years, adversely affecting Chinese food exports to Japan. Furthermore, Japan's uniform standard of 0.01 ppm for several pesticides was arbitrary and without scientific justification. China requested that Japan brings its requirements into line with the relevant international standards. China's exporters indicated that imported products were subjected to a greater number of random inspections. Furthermore, inspections were carried out only on certain imported products, even though the same pesticides were also used domestically in Japan. China urged Japan to apply its measures uniformly without any discrimination.

153. Japan clarified that the MRLs were based on scientific assessment, and Codex and other international standards were taken into account when enforcing the measures. Japan had notified the WTO before establishing these MRLs and had received comments. The SPS Agreement was taken into consideration, and the measures were applied equally to imported and domestic products. The frequency of inspections was increased based on findings of violations. Japan confirmed that the Codex MRLs would be the basis of the current revision, which would occur by December at the earliest. Japan expressed its commitment to continuing bilateral discussions with Brazil.

154. In October 2009, China recalled that after the implementation of Japan's positive list system for chemical residues, China and many other Members had expressed concerns regarding the issue of "uniform standards". Japan had indicated that the standard would be revised on the basis of scientific evaluations and MRLs would be established for more chemical residues. In recent years, almost all notices that China received from Japan regarding products that exceeded pesticide limits were caused by the "uniform standards". These had severely affected China's trade with Japan. Also, after the implementation of Japan's positive list system, a series of regulatory measures such as intensified inspection, quarantine and supervision, had been undertaken. China urged Japan to develop science-based residue limits for the items of concern as soon as possible, to alleviate unnecessary restrictions to international trade.

155. Ecuador supported China's concern regarding MRLs applied by Japan. Ecuador's cacao exports had faced difficulties of market access, and although various meetings had taken place, no solution had been found. Ecuador requested Japan to modify its MRLs in accordance with international standards.

156. Japan stated that the uniform standard was based on the evaluations by the FAO/WHO Joint Expert Committee on Food Additives (JECFA) and/or on the tolerance exposure amounts that the US Food and Drug Administration (FDA) adopted for food additives.

JORDAN

CONCERNS RELATED TO MEASURES MAINTAINED BY JORDAN

Other concerns

279. Import restrictions on pork products due to Influenza A/H1N1 - Maintained by Jordan, Armenia, Bahrain, China, Gabon, Indonesia and Suriname (See item 279, page 1)

KOREA

CONCERNS RELATED TO MEASURES MAINTAINED BY KOREA

Animal Health

274. Korea's Livestock Epidemic Prevention Act

Raised by:	Canada
Supported by:	
Dates raised:	October 2008 (G/SPS/R/53, paras. 6-7), February 2009 (G/SPS/R/54, paras. 13-14)
Relevant document(s):	Raised orally
Solution:	Consultations requested on 9 April 2009; request for establishment of a Panel on 9 July 2009; Panel composed on 13 November 2009 (WT/DS391)
Status:	Not reported
Date reported as resolved:	

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

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

159. In February 2009, Canada again expressed concerns regarding recent amendments to Korea's Livestock Epidemic Prevention Act, including its consistency with the SPS Agreement and with the OIE Code. However, this represented only one of a series of barriers Canada was facing in its efforts to resume trade in beef with Korea. While matters had appeared to progress following the October 2008 meeting of the SPS Committee, there had been no significant progress after an on-site visit by Korean officials in November 2008. Since May 2007, the OIE recognized Canada as a controlled-risk country for BSE, which according to the OIE Code allowed for safe trade in all beef and cattle under conditions which Canada could meet. Canada regretted that the issue could not be resolved at a technical level on a strictly scientific basis and was considering all options, including recourse to formal WTO dispute settlement procedures. Canada remained hopeful that this would not be necessary, but could not allow the issue to continue unresolved; five years was long enough.

160. Korea indicated that the Livestock Epidemic Prevention Act was consistent with the SPS Agreement. The Act required a risk analysis for beef imports in all cases. The risk analysis for Canada was underway; Canada's BSE measures were under review. More detailed consultations were required after the on-site inspection of November 2008, including information on Canada's fifteenth BSE case.

MEXICO

CONCERNS RELATED TO MEASURES MAINTAINED BY MEXICO

Animal Health

263. Import restrictions on cooked and frozen meat

Raised by:	Brazil
Supported by:	
Dates raised:	April 2008 (G/SPS/R/49, paras. 19-20), June 2008 (G/SPS/R/51, paras. 36-39), February 2009 (G/SPS/R/54, paras. 24-26), June 2009 (G/SPS/R/55, para. 179)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

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

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

163. In June 2008, Brazil reiterated concerns about Mexico's requirements on the importation of Brazilian cooked and frozen meat. As recognized in Article 3.6.2.1. of the OIE Terrestrial Code, cooking of meat completely inactivated the FMD virus. In addition, Mexico's ban on Brazilian cooked meat was contrary to the decisions of its NAFTA partners which imported cooked and frozen meat from Brazil. Mexico had sent a communication indicating the need to approve meat processing facilities in order to allow exports. Brazil had therefore requested further details about the criteria for these evaluations. The approval procedure should be done on a sample basis. Furthermore, there had

been continuous delays by the Mexican authorities in sending an inspection group to conduct on-site visits. Brazil urged Mexico to apply the SPS Agreement provisions and OIE recommendations, and to eliminate its import restrictions, as cooked and frozen meat did not pose risks of transmitting the FMD virus.

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

165. Brazil contested the linkages between the restrictions on importation of Mexican eggs and the recognition of FMD-free zones in Brazil. Regarding Mexico's complaint on the restriction on eggs, bilateral technical consultations had been held, and Brazil was waiting to receive the complementary information that it had requested of Mexico.

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

167. In February 2009, Brazil recalled that Mexico was restricting access of cooked and frozen meat from FMD-free areas. Brazil considered that Mexico's restrictions were not based on scientific evidence since OIE standards were clear that heat treatment could be used to inactivate the FMD virus. Bilateral meetings at technical and even ministerial level had been held, but with no reaction from Mexican authorities. Brazil and Mexico had signed a memorandum of understanding in 2007 which established a technical group to discuss SPS matters. Despite Brazilian proposals to arrange a first group meeting, including requests at ministerial level, the meeting had not taken place. Brazil was disappointed at the lack of response, but hoped for friendly and expeditious consultations on the matter.

168. Mexico indicated that there had been some progress at a meeting on 19 September 2008. He reiterated that Mexico had received information on the toxic residue control plan, but on two occasions Mexico had asked for additional information, and this additional information had not been provided. Once this information was received and had been analyzed, the next step would be the analysis of the establishments interested in exporting to Mexico. Brazil requested a bilateral meeting on the margins of the SPS Committee meeting to clarify what information had been sent and what might be missing.

169. In June 2009, Brazil provided information on progress made regarding the export of cooked and frozen meat to Mexico. A bilateral working group on technical and agricultural cooperation between Brazil and Mexico had met, and it was agreed that Mexico would send an inspection mission between 15-20 October 2009.

271. Restrictions on imports of swine meat

Raised by:	Brazil
Supported by:	
Dates raised:	June 2008 (G/SPS/R/51, paras. 25-26), February 2009 (G/SPS/R/54, paras. 21-23), October 2009 (G/SPS/R/56, paras. 35-36)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

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

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

172. In February 2009, Brazil recalled that the State of Santa Catarina had been recognized as FMD free in 2007. In 2008, Brazil had requested the establishment of a working plan for recognition of this disease-free area, taking into account the Committee's Decision on Article 6 (G/SPS/48). Brazil had made important investments to achieve freedom from FMD without vaccination. Mexican authorities had promised a response, but none had been received, and no progress had been made. Brazil had proposed a new approach: Brazil had invited Mexico to use the good offices mechanism of Article 12.2 of the SPS Agreement and paragraph 6 of the Committee's working procedures, with the presence of a specialist from the OIE. Brazil was waiting for Mexico's response to this proposal and looked forward to the friendly and timely resolution of this issue based on OIE standards.

173. Mexico indicated that for pig meat, the information Brazil had provided to the Mexican authorities was being studied. Mexico had asked for information on Brazil's toxic residue control plan, which had been received in August 2008. In October 2008, Mexico had requested additional information about this toxic residue control plan, and again in February 2009, without receiving a response. Mexico's consideration of this issue would be able to continue when the information was received. The suggestion to use the Good Offices mechanism had only recently been received and forwarded to the capital. Brazil suggested that Mexico's request for information was related to a different trade concern regarding heat-treated meat (see STC 263 above). Brazil's residue plan was available on a website. All information on FMD freedom was available to Mexico, and in addition, the OIE had studied the information and there had been several bilateral meetings. There was no missing information at this stage, but if necessary, the information would be provided again.

174. In October 2009, Brazil stated that Brazil's pork had been facing serious restrictions to the Mexican market since 2006. Mexico's lack of recognition had resulted in import restrictions for Santa

Catarina's pork exports. Brazil had tried without success to resolve the issue through bilateral discussions, and had proposed the use of the good offices of the SPS Committee chair. Mexico had not responded to this proposal. In July 2009, Brazil had received a new request from Mexico for very extensive information, much of which had already been previously provided. Brazil hoped that the new questionnaire was not a means to delay the opening of the Mexican market, and looked forward to Mexico's agreement to use the Chairperson's good offices.

175. Mexico stated that on 3 July 2009, three questionnaires were submitted to the Veterinary Services of Brazil regarding the import of beef, poultry and pork; however Brazil had not provided any response to the questionnaires. On 20 July 2009, Mexico, through SENASICA, sent remarks relating to Brazil's toxic residues program but no response had been received. Mexico was willing to continue bilateral discussions on the matter, and encouraged Brazil to provide the requested additional information needed to work further on the issue.

Plant Health

270. Import restrictions on rice

Raised by:	Pakistan
Supported by:	
Dates raised:	June 2008 (G/SPS/R/51, paras. 23-24), October 2008 (G/SPS/R/53, para. 42), June 2009 (G/SPS/R/55, Para.54)
Relevant document(s):	Raised orally
Solution:	Agreement reached
Status:	Resolved
Date reported as resolved:	

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

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

178. In October 2008, Mexico reported that the concern raised by Pakistan regarding restriction of rice imports was resolved, however, Mexico had not yet completed its assessment of plant health risks. Pakistan thanked the Government of Mexico for the efforts undertaken to carry out the required

pest risk assessment. Pakistan also requested a time-line from Mexico for each step of the pest risk assessment process on plant health.

179. In June 2009, Pakistan reported that an agreement had been reached with Mexico on this issue, and all that was now required was that the final agreed procedures be published. Mexico confirmed that only some regulatory aspects had yet to be concluded with regard to the importation of rice from Pakistan.

277. NAPPO draft standard for ships and cargoes from areas infested with Asian Gypsy Moth - Maintained by Mexico, Canada and the United States **(See item 277, page 4)**

PANAMA

CONCERNS RELATED TO MEASURES MAINTAINED BY PANAMA

Animal Health

214. Inspection regime for food processing establishments

Raised by:	United States
Supported by:	Canada
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 25-27), February 2009 (G/SPS/R/54, para. 37)
Relevant document(s):	G/SPS/N/PAN/1, G/SPS/N/PAN/28, G/SPS/N/PAN/37
Solution:	Panama no longer requires inspection of individual establishments, but allows the US Food Safety and Inspection Service to certify them for export.
Status:	Resolved
Date reported as resolved:	25 February 2009

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

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

authorities because Panama, as a hub for world trade transit, was exposed to a greater risk of illness from exotic animals and plants.

182. In February 2009, the United States thanked Panama for the resolution of this concern. The United States and Panama had worked together regularly to address their respective concerns. As a result, Panama no longer requires inspection of individual establishments, but allowed the US Food Safety and Inspection Service to certify them for export.

SOUTH AFRICA

CONCERNS RELATED TO MEASURES MAINTAINED BY SOUTH AFRICA

Animal Health

287. Import restrictions on fresh pork meat and beef

Raised by:	Brazil
Supported by:	
Dates raised:	October 2009 (G/SPS/R/56, paras. 16-17)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

183. 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 round 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.

184. 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.

SURINAME

CONCERNS RELATED TO MEASURES MAINTAINED BY SURINAME

Other concerns

279. Import restrictions on pork products due to Influenza A/H1N1 - Maintained by Suriname, Armenia, Bahrain, China, Gabon, Indonesia and Jordan (See item 279, page 1)

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

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINESE TAIPEI

Food safety

275. Maximum level for ractopamine

Raised by:	United States
Supported by:	Canada
Dates raised:	October 2008 (G/SPS/R/53, paras. 8-12), October 2009 (G/SPS/R/56, paras. 141-147)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

185. 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.

186. 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.

187. 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.

188. 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.

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

190. 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.

191. 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.

192. 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.

193. The European Communities noted that last year the European Food Safety Agency (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.

194. 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. The representative of 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.

195. 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.

196. 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.

UKRAINE

CONCERNS RELATED TO MEASURES MAINTAINED BY UKRAINE

Animal Health

288. Import measures on animals and animal products

Raised by:	European Communities
Supported by:	Canada, Iceland, Norway, United States
Dates raised:	October 2009 (G/SPS/R/56, paras. 18-20)
Relevant document(s):	G/SPS/N/UKR/3/Rev.1/Corr.1
Solution:	
Status:	Not reported
Date reported as resolved:	

197. In October 2009, the European Communities raised concerns with regards to the imposition of an inspection requirement on all establishments wanting to continue exporting a wide range of animal and animal products to Ukraine. There was no justification for the sudden introduction of such comprehensive inspections. The European Communities questioned the scope, range of products covered and how the inspections would be carried out. Assurance was needed that trade would not be unjustifiably and unnecessarily disrupted. The measure would take effect on 14 January 2010, and the Ukraine should clarify that if it had not completed inspections by 14 January this would not result in the rejection of goods, as had been stated in bilateral meetings with the Ukraine Veterinary Services. The European Communities requested the postponement of the entry into force of the measure.

198. Canada, Iceland, Norway and the United States expressed similar concerns with respect to Ukraine's new import conditions on animal products. They indicated that their respective authorities had submitted comments to Ukraine regarding the new measure.

199. Ukraine stated that the measure was intended to protect health and safety within it's territory. Ukraine would take note of the concerns raised and the comments that had been received during the comment period for the original notification. Notification G/SPS/N/UKR/3/Rev.1/Corr.1 had been distributed to WTO Members with a deadline for comments of 30 November 2009. Ukraine authorities had been in contact with the concerned Members and remained willing to further rectify and revise the text of the measure so that it provided more legal certainty and comfort for trading partners.

UNITED STATES

CONCERNS RELATED TO MEASURES MAINTAINED BY THE UNITED STATES

Food safety

268. Import restrictions on EC dairy products

Raised by:	European Communities
Supported by:	New Zealand

Dates raised:	June 2008 (G/SPS/R/51, paras. 18-20), February 2009 (G/SPS/R/54, paras. 27-28)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

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

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

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

203. In February 2009, the European Communities indicated that there had been some progress with the US-EC equivalence exercise on dairy products, but that there were still obstacles, in particular in relation to the US definition of Grade A dairy products. The definition was on a case-by-case basis, but apparently there were discussions about a more precise definition. The European Communities was concerned that if this definition were too tightly drawn, it could exclude certain products. The United States explained that there was no pending legislation in Congress affecting the definition of Grade A dairy products. The US National Conference of Interstate Milk Shippers was holding its biennial meeting in April. Two proposals had been submitted for consideration at the meeting which sought to define "milk products" for purposes of the Pasteurized Milk Ordinance. Neither of those proposals would expand the scope of products currently included in the Grade A programme. The US Food and Drug Administration (FDA) had sent a letter to DG SANCO and was willing to resume discussions about Grade A dairy product equivalence. FDA anticipated moving forward with the bilateral efforts in this area soon.

282. Measures on food products containing meat, poultry or processed egg products

Raised by:	China
Supported by:	Japan, Korea
Dates raised:	June 2009 (G/SPS/R/55, paras. 32-35)
Relevant document(s):	Raised Orally
Solution:	
Status:	Not reported
Date reported as resolved:	

204. In June 2009, the representative of China observed that US notification G/SPS/N/USA/1913 allowed only those countries whose administrative scheme for food safety and inspection services regarding food products containing small amounts of meat, poultry or processed egg products was identified as equivalent to that of the United States to export food products containing these ingredients. This recent measure was based on the Federal Inspection Law enacted in 1972. China requested the United States to provide the relevant risk assessment supporting these new measures, or to withdraw the measures if there was no scientific justification. China was of the view that the measure was not in accordance with Articles 2.2 and 5.6 of the SPS Agreement.

205. Korea shared the concern of China, as Korea had previously exported products to the United States containing small amounts of meat and poultry without any problem. Korea requested that the United States comply with international standards in this regard, as well as with Paragraph 2 of Annex B of the SPS Agreement, according to which Members should allow a reasonable period of time between the adoption of SPS regulations and their entry into force, in order to allow producers and exporters to adapt to the new requirements. Most products affected by this measure, such as gravy, had a very low level of poultry and meat content, and many had undergone heat treatment processes.

206. Japan shared the concerns of China and Korea and asked the United States to apply the measure with as much flexibility as possible so as to minimize its trade restrictive effects.

207. The United States explained that the bases of these restrictions were the Federal Meat Inspection Act, Poultry Products Inspection Act, and the Egg Product Inspection Act. Recent inspections by the USDA Food Safety Inspection Service (FSIS) found that some products entering the United States contained ingredients that did not originate from an approved source. Any product found to be in violation of the requirement, as identified through routine FSIS inspections, was rejected. In order to comply with the requirement, importers seeking a permit after 22 June 2009 would need to provide an attestation along with the permit application that the meat or poultry ingredient was from an approved source. The USDA would announce requirements for egg products in the near future, as there were also public health concerns in this regard. Members would be informed of all relevant measures and modifications, and were encouraged to work with the FSIS.

Animal Health

257. Import restrictions on cooked poultry products from China

Raised by:	China
Supported by:	

Dates raised:	October 2007 (G/SPS/R/46, paras. 11-12), April 2008 (G/SPS/R/49, paras. 39-40), June 2008 (G/SPS/R/51, paras. 29-30), October 2008 (G/SPS/R/53, paras. 35-36), February 2009 (G/SPS/R/54, paras. 15-16), October 2009 (G/SPS/R/56, paras. 37-39)
Relevant document(s):	Raised orally
Solution:	
Status:	Consultations requested on 17 April 2009; request for establishment of a panel on 23 June 2009; Panel composed on 23 September 2009 (WT/DS392)
Date reported as resolved:	

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

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

210. In April 2008, China indicated that despite numerous bilateral meetings, including on the recognition of equivalence, China's cooked poultry products were still denied access to the US market. The United States had admitted that there were no technical problems with the importation of cooked poultry from China, yet imports remained restricted due to legal problems. The Agriculture Appropriations bill, which contained a specific provision to not allow imports from China, had been signed into law. This prohibition was contrary to Articles 2.2 and 2.3 of the SPS Agreement, as the law was discriminatory and not science-based. This development set a bad precedent, showing that SPS measures could be easily overturned by legislation that paid no attention to scientific factors.

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

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

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

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

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

216. In February 2009, China reiterated concerns about the US Agricultural Appropriations Bill for fiscal year 2008, which had seriously affected China's exports of cooked poultry products. Although all technical problems had been resolved after numerous bilateral consultations, the United States still maintained an import ban because the Bill's section 733 indicated that no funds made available in the Bill be used to establish or implement a rule allowing poultry products to be imported to the United States from China. China was seriously concerned about this discriminatory legislation, which was in obvious violation of US international obligations. China hoped to resolve this problem in a science-based and pragmatic manner and asked the United States for an update. The United States indicated that the US authorities placed great importance on ensuring that measures were based on science. China's concerns would be brought to the attention of the appropriate authorities in Washington with the aim of resolving the issue as soon as possible.

217. In October 2009, China stated he United States had modified the relevant clauses of the Omnibus Appropriations Act 2009, and the newly adopted Agriculture Appropriation Act of 2010 allowed imports of processed poultry or poultry products from China only if certain criteria were met. The criteria included audits of inspection systems and on-site reviews of slaughter and processing facilities, laboratories and other control operations; a significantly increased level of port of entry re-inspection; and the creation of an information-sharing programme with other countries. While China noted the progress on the issue, the new measures were discriminatory as they specified conditions applicable only to China.

218. China further stated that the planned auditing and inspection requirements were excessively stringent and the certifying procedure was complicated. Additionally, the new provision ignored the agreement reached in 2007 between the United States and China on relevant technical issues concerning the import of poultry and poultry products from China, and the achievements China had made on developing disease-free areas in accordance with OIE standards. China requested the United States to fulfil its WTO obligations and to take active steps to eliminate discriminatory measures and normalize bilateral poultry trade.

219. The United States stated that it placed great importance on ensuring that its measures were based on science and in compliance with the WTO SPS Agreement. The Agriculture Appropriations legislation approved in 2009 permitted USDA to make a determination with respect to China's application to export poultry products to the United States, provided that the Secretary of Agriculture made certain commitments to Congress. Such commitments set forth what would ordinarily occur under the standard procedure that would apply to an application to export poultry products from any country. USDA would undertake certain transparency and notification obligations with respect to Congress, but it would not have any effect on the substantive treatment of China's application or of any imports from China.

285. Import restrictions on fresh pork meat and beef

Raised by:	Brazil
Supported by:	
Dates raised:	October 2009 (G/SPS/R/56, paras 11-13)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

220. In October 2009, Brazil raised concerns regarding US import restrictions on fresh pork, beef and beef products from Brazil. Brazil had requested the US authorities to begin a risk assessment on beef products in 1999, but despite bilateral exchanges of information for a decade, the risk assessment had still not been finished. In January of 2009, the United States had informed Brazil that it was giving full attention to the issue of Brazilian beef, but Brazil was still waiting for the result of the risk assessment process.

221. Regarding pork, in 2006 Brazil had been informed that their national inspection system was eligible for consideration under the risk assessment process due to its well-known safety and biosecurity standards. In 2007, Brazil requested access for the State of Santa Catarina, since it was an FMD-free zone without vaccination, as recognized by the OIE in 2007. All technical information was forwarded to the US authorities in 2007. At the beginning of 2009, Brazil was informed of the conclusion of the risk analysis technical process and approved the working plan for pork meat. Since then, Brazil had been waiting for the publication of the proposed rule. According to the US legislation, however, after the publication of the proposed rule, effective market access could still take from 18 months to 2 years. This unjustifiable administrative delay had motivated Brazil to raise a specific trade concern on the matter in April 2008, as it was important to have a predictable and reliable timetable for the conclusion of the risk analysis process.

222. The United States stated that the risk evaluations were completed and USDA was currently drafting a proposed rule to recognize Santa Catarina as eligible to ship pork to the United States. Regarding beef, the United States was working to complete the review of the FMD risk mitigation measures. The United States recognized the importance of the request and would continue to work closely with Brazil to complete the rulemaking processes for fresh pork and beef as expeditiously as possible.

Plant Health

269. Restrictions on apples

Raised by:	China
Supported by:	
Dates raised:	June 2008 (G/SPS/R/51, paras. 21-22), October 2008 (G/SPS/R/53, paras. 37-38), February 2009 (G/SPS/R/54, paras. 29-30), June 2009 (G/SPS/R/55, paras. 50-51)
Relevant document(s):	Raised orally

Solution:	
Status:	Not reported
Date reported as resolved:	

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

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

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

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

227. In February 2009, China indicated that although there had been technical discussions on this subject, there had been no progress. China remained concerned about undue delays in the pest risk assessment process. China was free of fire blight and fruit flies in the apple-growing regions. In addition, fruit bagging was used, so there was no quarantine risk. Chinese apples had similar production areas, diseases, pest occurrences and regulations as pears in China. The United States had allowed importation of pears based on a risk assessment, so there should be no quarantine problem for apples. China indicated that according to Article 5.7, a risk assessment should be carried out within a reasonable period of time and asked the United States to complete its assessment as soon as possible.

228. The United States indicated a willingness to continue working with China to address the scientific issues related to the market access request for Chinese apples. The United States had identified an extensive list of quarantine pests associated with apples from China, which made the risk assessment a challenging task. In addition, the United States was reviewing the information provided on the pests of concern to determine whether it provided a clear and complete scientific understanding of the pest situation, and was awaiting additional information from China. For example, China would

have to provide scientific evidence to support its claims that some pests did not occur in the apple producing areas. The United States would review this information, once received, along with all other submissions, and continue to work with China to address the scientific issues associated with the risk assessment.

229. In June 2009, China stated that it remained concerned about undue delays in the pest risk assessment process. A period of 14 years had gone by and there had been no advancements with regard to the risk assessment process. China requested further clarifications in this regard and hoped for the resumption of trade in apples between the United States and China.

230. The United States stated that the risk assessment process was underway but not yet completed, and expressed hope for a quick conclusion to the process.

277. NAPPO draft standard for ships and cargoes from areas infested with Asian Gypsy Moth - Maintained by the United States, Canada and Mexico (See item 277, page 4)

284. Rule on importation of wooden handicrafts from China

Raised by:	China
Supported by:	
Dates raised:	June 2009 (G/SPS/R/55, paras. 39-40), October 2009 (G/SPS/R/56, paras. 47-49)
Relevant document(s):	G/SPS/N/USA/1921
Solution:	
Status:	Not reported
Date reported as resolved:	

231. In June 2009, China expressed gratitude to the United States for a bilateral meeting regarding the new notification that all wooden handicrafts would have to be subject to heat treatment and fumigation. China requested that the requirement be limited only to those products for which there was an identified risk, and that the measure comply with Article 5.6 of the SPS Agreement.

232. The United States recalled that between 2002 and 2005, during routine inspections at US ports of entry, significant pests were found 418 times including in artificial Christmas trees, wooden home products and wood handicraft items, despite certification by China. The United States continued to allow wood products from China subject to a new bark-removal condition. Upon completion of the risk assessment in 2008, the United States shared its findings with China and initiated several bilateral technical meetings to explain its position to ensure that all interested stakeholders were well informed. The new rule for importation was circulated to all Members on 27 April 2009, and the comment period closed on 8 June 2009. The United States thanked Members for providing comments and assured that these would be reviewed before a final determination on the matter.

233. In October 2009, China reiterated concerns regarding US regulations on wooden handicrafts from China. The draft regulation broadened the scope of regulated products to all wooden handicrafts from China, which had to be subjected to fumigation or heat treatment and accompanied by a plant

quarantine certificate. Risks, however, were only associated with wooden handicrafts with bark with diameter over one centimetre. The US heat treatment requirement went far beyond the IPPC standard. China requested that the United States base its measures on the relevant international standards, in particular ISPM 32, and to eliminate the certificate requirement for low risk wooden handicrafts in the final measure.

234. The United States stated that in April 2009, the USDA proposed to allow the importation of wooden handicrafts from China under certain conditions. The proposal would allow trade to resume in a broad range of Chinese-origin wooden handicrafts while continuing to protect the United States against the introduction of plant pests, such as wood boring beetles. The United States had taken measures in response to finding pests on wood handicraft products, including artificial Christmas trees, trellis towers, other home and garden wood décor, and wood handicraft items. Pests were found on 418 different occasions between 2002 and 2005. The intercepted pests were closely related to the Asian longhorned beetle, which had previously been introduced into the United States in shipments of wood packing material from China. The comment period on the proposed rule had closed on 8 June 2009, and all comments would be considered prior to making determination to issue a final rule.

235. The IPPC stated that ISPM 15 concerned wood packaging material and that in 2008 the Commission on Phytosanitary Measures (CPM) had recognized that handicrafts were also an issue. The topic "Wood products and handicrafts made from raw wood" had been included on the IPPC work programme. A specialized technical panel would draft a specification for this new standard in 2010.

Other concerns

289. Measures on catfish

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

236. 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 FDA to 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.

237. 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 SPS Secretariat, and to identify any potential concerns with the proposed regulation as soon as possible.

CERTAIN MEMBERS

CONCERNS RELATED TO MEASURES MAINTAINED BY CERTAIN MEMBERS

Animal Health

193. General import restrictions due to BSE

Raised by:	European Communities
Supported by:	Canada, Switzerland, United States, Uruguay
Dates raised:	June 2004 (G/SPS/R/34, paras. 37-38), October 2004 (G/SPS/R/35, paras. 85-86), June 2005 (G/SPS/R/37/Rev.1, paras. 75-76), February 2007 (G/SPS/R/44, para. 29), October 2008 (G/SPS/R/53, paras. 24-28), February 2009 (G/SPS/R/54, paras. 11-12), June 2009 (G/SPS/55, para. 47), October 2009 (G/SPS/R/56, para. 47)
Relevant document(s):	Raised orally
Solution:	Partial solution notified
Status:	Partially resolved
Date reported as resolved:	

238. 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.

239. 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.

240. 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.

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

242. 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.

243. 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.

244. 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. The representative of Canada urged other Members to resume full trade in beef and cattle based on the OIE designation.

245. 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.

246. Switzerland supported the EC concern on restrictions due to BSE.

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

248. 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.

249. The 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.

250. 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.

251. 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 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. Finally, the European Communities urged Members to fully take into consideration the latest OIE BSE guidelines and to establish fair, non-discriminatory and transparent rules.