WORLD TRADE ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

Addendum

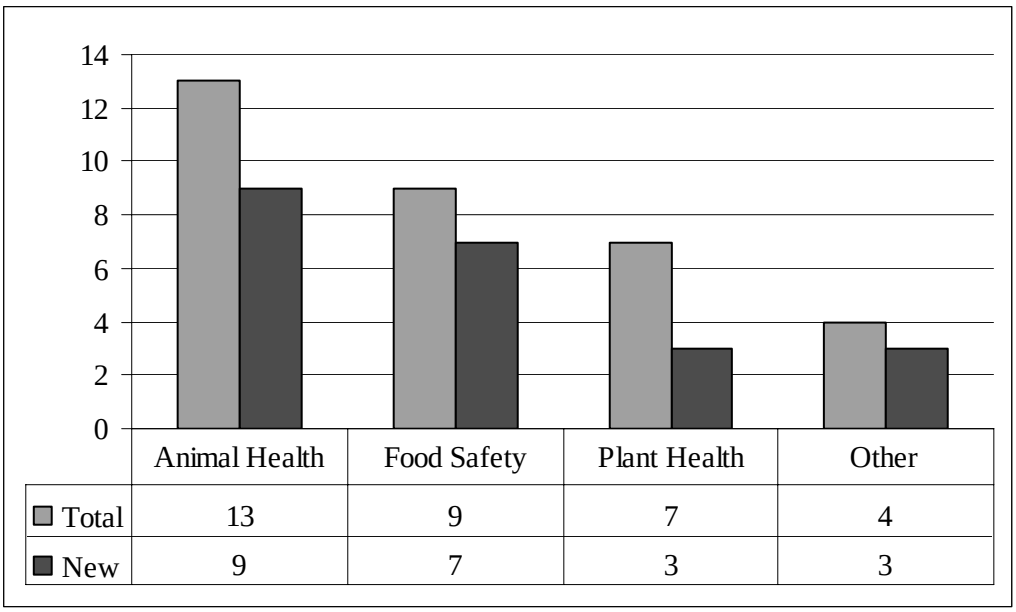
ISSUES CONSIDERED IN 2010

This part of document G/SPS/GEN/204/Rev.11 contains summary information regarding all issues which were raised in the SPS Committee for the first time during 2010, and issues which were previously raised but on which further discussions or activities occurred during 2010. This includes issues for which there was no substantive discussion in the Committee during 2010, 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 2010 (e.g., establishment of a dispute resolution panel on the issue).

A total of 33 specific trade concerns were brought to the attention of the Committee during 2010, of which 22 were new issues. Figure 1 shows all trade concerns raised or for which a resolution or other action was reported in 2010, by subject. Overall, nine issues (27 per cent) relate to food safety, seven issues (21 per cent) relate to plant health and four issues (12 per cent) relate to other concerns. The remaining 13 issues (40 per cent) relate to animal health and zoonoses; this category includes issues such as transmissible spongiform encephalopathy (TSEs) that are also relevant for food safety. Figure 2 indicates that TSEs account for 31 per cent of animal health concerns raised in 2010, while issues related to foot and mouth disease account for 15 per cent, avian influenza for 31 per cent, and the remaining 23 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 – 2010



	Animal Health	Food Safety	Plant Health	Other
Total	13	9	7	4
New	9	7	3	3

FIGURE 2 - TRADE CONCERNS RELATED TO ANIMAL HEALTH & ZOONOSES – 2010

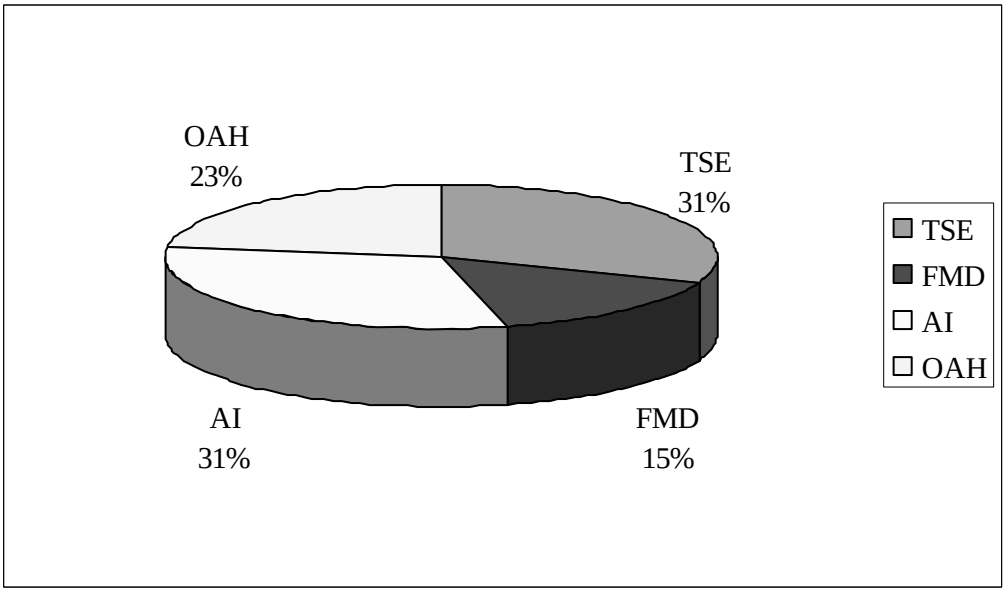
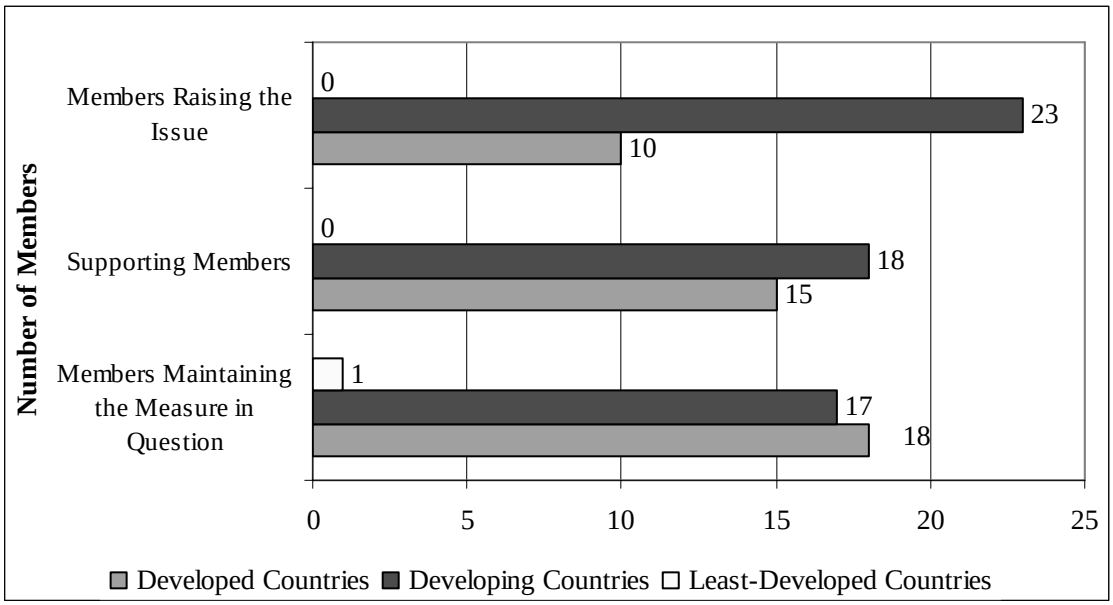


FIGURE 3 - PARTICIPATION OF MEMBERS - 2010



Of the 33 trade concerns discussed in 2010, in 10 cases a developed country Member has raised the issue, compared to 23 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 2010. Developed country Members have supported another Member raising the issue in 15 cases and developing country Members have supported another Member in 18 cases. No cases were supported by a least-developed country Member in 2010.

In 17 cases, the measure at issue was maintained by a developing country Member, and in 18 cases it was maintained by a developed country Member. Some specific trade concerns are with regard to measures maintained by more than one Member, including combinations of developed and developing countries. For the first time, a trade concern regarding measures maintained by a least-developed country Member was raised.

Four trade concerns raised in 2010 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 TSEs, one to AI, and two to plant health protection. The partially resolved issue related to TSEs.

Table 1 – Issues Raised for the First Time in 2010

Specific trade concern number	Member(s) Maintaining the Measure	Title	Status[2]
291	Chinese Taipei	BSE measures	NR
292	United States	Prohibition of ornamental plants larger than 18 inches	NR
293	France, European Union[3]	Risks arising from carambola fruit fly in French Guyana	NR
294	Malaysia	Import restrictions on plant and plant products	NR
295	European Union	Artificial colour warning labels	NR
296	China	SPS notification practices	NR
297	Canada	Registration requirements for pet food export enterprises in China	NR
298	Colombia	Import restrictions on Brazilian beef	NR
299	United States	US 2009 Food Safety Enhancement Act	NR
300	European Union	EC Regulation No. 1099/2009	NR
301	United States	US risk analysis for the entry of queen bees	NR
302	Turkey	Restrictions on products derived from biotechnology	NR
303	Senegal	Import restrictions on poultry meat	NR
304	Canada	Proposed MRL for 1-methylcyclo-propene in bananas	NR
305	Indonesia	Import restrictions on beef and recognition of the principle of regionalization	NR
306	European Union	Maximum residue levels of pesticides	NR
307	Japan	Prohibition of certain food additives	NR
308	Brazil	Restrictions on bovines and bubalines for reproduction	NR

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

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

Specific trade concern number	Member(s) Maintaining the Measure	Title	Status[2]
309	Brazil	Labeling of products of animal origin (G/SPS/N/BRA/654)	NR
310	Brazil	Measures on canned sardines (G/SPS/N/BRA/666)	NR
311	Albania, Croatia	Restrictions on poultry and poultry products	NR
312	Mexico	Restrictions on beef exports due to BSE-related concerns	NR

Table 2 – Other Items Considered During 2011

Specific trade concern number	Member(s) Maintaining the Measure	Title	Status[4]
81	European Union	Wood packing material	R
185	India	Restrictions due to avian influenza	NR
193	Certain Members	General import restrictions due to BSE	PR
257	United States	Import restrictions on cooked poultry products from China	R
267	Japan	Pesticide maximum residue level (MRL) enforcement system	NR
270	Mexico	Import restrictions on rice	R
277	Canada, Mexico, United States	NAPPO draft standard for ships and cargoes from areas infested with Asian gypsy moth	NR
283	Japan	Pesticide maximum residue levels (MRLs)	NR
284	United States	Rule on importation of wooden handicrafts from China	NR
288	Ukraine	Import measures on animals and animal products	R
290	Bolivarian Republic of Venezuela	Suspension of inspection and delivery of plant and animal health certificates for imports	NR

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

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ALBANIA

CONCERNS RELATED TO MEASURES MAINTAINED BY ALBANIA

Animal health

311. Restrictions on poultry and poultry products – Maintained by Albania and Croatia

Raised by:	Chile
Supported by:	United States
Dates raised:	October 2010 (G/SPS/R/61, paras. 155-161)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

1. In October 2010, Chile reported that Albania restricted imports of poultry products from Chile allegedly because of avian influenza. However, no avian influenza had been found in Chile since 2002. If Albania's concern was with regard to the A1/ H1N1 virus, Chile noted that there was no scientific evidence that this virus was spread by poultry products. Chile therefore requested that Albania remove these emergency measures.

2. The United States supported Chile's request and urged all Members to remove any trade restrictions that had been imposed due to H1N1.

3. Albania indicated that this information would be transmitted to the authorities, who would reply to Chile shortly.

4. Chile indicated that Croatia had also imposed restrictions on poultry products from Chile allegedly because of avian influenza. As there had been no avian influenza in Chile since 2002, there was no scientific basis for these restrictions. Furthermore, Croatia had not notified those measures to the WTO. Chile requested Croatia to remove those measures without delay.

5. Croatia responded that the measures had been introduced in 2009 on the basis of an OIE warning about an emerging disease situation in Chile. However, the emergency measure had expired after six months, and had been formally abolished in August. This would be notified to the WTO shortly.

6. Chile expressed concern that Members should not introduce restrictions in reaction to information provided to the OIE for purposes of transparency, rather Members should be encouraged to be more transparent about their measures.

BOLIVARIAN REPUBLIC OF VENEZUELA (VENEZUELA)

CONCERNS RELATED TO MEASURES MAINTAINED BY VENEZUELA

Other concerns

290. Suspension of inspection and delivery of plant and animal health certificates for imports – Maintained by Venezuela

Raised by:	Colombia
Supported by:	
Dates raised:	October 2009 (G/SPS/R/56, para. 202), March 2010 (G/SPS/R/58, paras. 41-43), June 2010 (G/SPS/R/59, paras. 48-51), October 2010 (G/SPS/R/61, paras. 29-30)
Relevant document(s):	G/SPS/GEN/983.
Solution:	
Status:	Not reported
Date reported as resolved:	

7. In October 2009, Colombia informed the Committee of Venezuela 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 bilateral basis.

8. In March 2010, Colombia presented G/SPS/GEN/983, which detailed its concern about the suspension of inspections and the delivery of plant and animal health certificates for Colombian products into Venezuela. Colombia considered that the measures adopted by Venezuela were in flagrant violation of the basic provisions of the SPS Agreement, in particular Article 2, Annex C and Article 13 (Implementation), and would cause severe economic losses to Colombia.

9. Venezuela responded that the information presented in G/SPS/GEN/983 was not based on official documents or an actual certification refusal, but rather on information from the press. The request for approval related to medication Lendormin should not be considered an SPS matter, but as an import licensing issue outside the scope of the SPS Agreement. Venezuela suggested that the issues raised by Colombia be discussed bilaterally.

10. Ecuador, the Plurinational State of Bolivia (Bolivia) and Cuba encouraged both countries to try to solve their differences bilaterally.

11. In June 2010, Colombia reiterated the concerns presented in G/SPS/GEN/983. Colombia considered the measures adopted by Venezuela to represent undue obstacles to trade as these were not based on scientific evidence of a health risk. In response to Venezuela's comments at the March 2010 meeting that Colombia was relying only on press reports, Colombia had submitted additional documentation showing instructions banning the delivery of licenses and permits. Colombia wished to receive an explanation as to why those instructions had been issued.

12. Venezuela repeated its suggestion that the issues raised by Colombia be discussed bilaterally.

13. Cuba and Bolivia again encouraged both countries to solve their differences bilaterally.

14. In October 2010, Colombia reported that the issue of sanitary restrictions had been discussed in a meeting between the Presidents of Venezuela and Colombia as part of the normalization of trade relations between the two countries. Colombia hoped that expeditious progress would be made, so that a resolution might be reported to the Committee in March 2011.

15. Venezuela confirmed that bilateral contacts had been established between the two countries and that reports would be provided on the progress made in resolving this issue.

BRAZIL

CONCERNS RELATED TO MEASURES MAINTAINED BY BRAZIL

Food safety

309. Labeling of products of animal origin (G/SPS/N/BRA/654)

Raised by:	European Union
Supported by:	
Dates raised:	October 2010 (G/SPS/R/61, paras. 41-42)
Relevant document(s):	G/SPS/N/BRA/654
Solution:	
Status:	Not reported
Date reported as resolved:	

16. In October 2010, the European Union stated that it welcomed the postponement until January 2011 of the entry into force of Brazil's labeling provisions, but noted that the new labeling requirements were not based on science, and could affect a wide range of products exported to Brazil. The European Union sought clarification from Brazil on the sanitary risks the labeling requirements were intended to address.

17. Brazil stated that the draft legislation on labeling requirements for imported products of animal origin reflected requirements that had been in place since 1998. Due to the high number of comments received on the draft legislation, Brazil had extended the deadline for comments until November 2010. The draft legislation was supposed to enter into force in January 2011. Brazil hoped that further bilateral technical exchanges of information would successfully address the EU concerns.

Animal health

308. Restrictions on bovines and bubalines for reproduction

Raised by:	Colombia
Supported by:	
Dates raised:	October 2010 (G/SPS/R/61, paras. 22-23)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

18. In October 2010, Colombia expressed concern that the entry into force of Brazil's new Ministry of Agriculture, Livestock and Supply (MAPA) standard 46 would nullify the 2003 Memorandum of Understanding regarding bovines and bubalines and semen of bubalines from Colombia. Brazil's recognition of the FMD-free status of Colombia was not forthcoming. The Brazilian authorities had requested more information following the 2003 and 2006 recognition of the FMD-free status of Colombia. This information had been sent and discussed in bilateral meetings in 2007. In 2008, MAPA had indicated a need for a new verification visit, but had failed to carry out this visit. In bilateral meetings held in the margins of the SPS Committee meeting, Brazil had

proposed a new quarantine procedure which Colombia hoped would lead to the resolution of this problem.

19. Brazil indicated that the bilateral meeting had been a useful opportunity to clarify some issues and resume discussions. Brazilian sanitary authorities had concluded that the new quarantine station on the Island of Cananea in the state of Sao Paolo, which had recently started its operations, could provide additional guarantees as regarded the sanitary controls for Colombia's exports to Brazil. If Colombia's exports of live cattle and buffalos were subject to certain procedures at that station, it would facilitate the solution of the matter. Brazil's requirements were due to the existence in Colombia of a certain strain of the vesicular stomatitis virus which affected bovines. This virus was exotic to Brazil, and of major concern in the Mercosur region.

Other concerns

310. Measures on canned sardines (G/SPS/N/BRA/666)

Raised by:	Morocco
Supported by:	European Union
Dates raised:	October 2010 (G/SPS/R/61, paras. 43-46)
Relevant document(s):	G/SPS/N/BRA/666
Solution:	
Status:	Not reported
Date reported as resolved:	

20. In October 2010, Morocco stressed the importance of the fish sector for Morocco's economy, and in particular canned sardines which represented 94 per cent of their canned fish. Although Brazil's notification did not identify health concerns, in Morocco's view the notified measure was more restrictive of trade than necessary. The notified measure was also in contradiction with the Codex principle of identification of sardine species, and Codex should be referred to when adopting measures. Brazil's notified measure could seriously restrict canned sardine exports from Morocco and constituted unfair competition at the global level. Morocco also considered that the measure was in contradiction with Articles 3.5 and 12.4 of the SPS Agreement and sought reactions from other Members, especially from the European Union as a major importer of canned sardines.

21. The European Union supported the concerns of Morocco, and noted that Brazil's deadline for comments was 40 days and not the recommended 60 days. Brazil's requirements were not in line with the relevant Codex standards and the European Union urged Brazil to align its measures with the relevant international standards.

22. Brazil reported that the draft legislation had been also notified to the TBT Committee. All comments received would be duly taken into account and Brazil was willing to hold any technical meetings considered necessary by Morocco. Brazil did not understand how a measure that would be less trade restrictive than one based on an international measure could be considered to be a barrier to trade. While Brazil's list of species that could be used for canned sardines was shorter than the Codex list, according to Article 5 of the draft legislation the Brazilian list was not exhaustive.

23. Peru recalled that there had been a previous case between Peru and the European Union on the denomination of sardines which had also involved Codex standards.

CANADA

CONCERNS RELATED TO MEASURES MAINTAINED BY CANADA

Food safety

297. Registration requirement for pet food export enterprises in China

Raised by:	China
Supported by:	
Dates raised:	June 2010 (G/SPS/R/59, paras.17-18)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

24. In June 2010, China referred to Canada's registration requirement for pet food export enterprises in China. In April 2008, China had sent a letter to Canada inviting a field inspection of Chinese pet food companies who intended to export to Canada. After receiving no reply, in April 2009 China sent a second letter requesting facilitation of the inspection process. Canada had replied to that letter stating that only those companies that had already corresponded with Canadian importers could be inspected due to limited financial resources. Although China had indicated that it was willing to bear the costs, Canada had still refused to accept China's request. China invited Canada to reconsider its request.

25. Canada reported that industries in both countries were interested in pet food exports, and that a new inspection plan was initiated earlier in the month. A list of 60 facilities were on the original list, and Canada had elected to start with 19 facilities that already held valid import permits. Canada was prepared to send several teams to simultaneously visit different facilities, and would continue its technical dialogue with China.

304. Proposed MRL for 1-methylcyclopropene in bananas

Raised by:	Ecuador
Supported by:	Colombia, Costa Rica
Dates raised:	March 2010 (G/SPS/R/58, paras. 49-51)
Relevant document(s):	G/SPS/N/CAN/413 and Corr.1
Solution:	
Status:	Not reported
Date reported as resolved:	

26. In March 2010, Ecuador expressed concerns with Canada's notification of 22 December 2009 regarding 1-methylcyclopropene in or on bananas. This product was used to prevent premature ripening of fruit due to ethylene exposure. This product was not registered with Ecuador's agricultural quality assurance agency AGROCALIDAD and Codex had not established an MRL for it. Consultations with the private sector had shown that exporting companies affiliated with the banana exporters' association of Ecuador did not use this product. Nevertheless, Ecuador was concerned

about the notified regulation, which proposed an extremely low MRL and could thus become a trade barrier. Therefore, Ecuador requested an explanation of the scientific basis for the proposed MRL.

27. Colombia and Costa Rica shared Ecuador's concern, while Venezuela expressed a systemic interest in the issue.

28. Canada acknowledged Ecuador's concern and noted that Canada followed the transparency obligations to avoid unnecessary barriers to trade. The comment period on the notification had ended on 2 March 2010, and Canada had not received any comments, nor any requests for an extension of the deadline for comments. If Canada received a request for such an extension from Ecuador, the deadline would be extended.

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, paras. 136-140), October 2009 (G/SPS/R/56, paras. 151-156), June 2010 (G/SPS/R/59, paras. 54-56)
Relevant document(s):	G/SPS/GEN/880 and G/SPS/N/CAN/281/Rev.1
Solution:	
Status:	Not reported
Date reported as resolved:	

29. 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.

30. 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.

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

32. 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.

33. 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.

34. 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.

35. 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.

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

37. 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.

38. In February 2009, 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.

39. 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.

40. 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 be adopted until its comments were duly considered.

41. 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.

42. 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.

43. 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.

44. 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 WTO rights and obligations.

45. 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.

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

47. 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.

48. 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.

49. 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.

50. 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.

51. 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 traveled 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.

52. Mexico supported the statements by the United States and Canada, and expressed its interest in continuing to work with concerned trading partners.

53. 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 guidelines 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.

54. 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 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.

55. 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.

56. 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 traveling from the region, and each egg mass contained thousands of eggs.

57. 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 issue could be addressed under specific trade concerns.

58. 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.

59. In June 2010, China raised concerns on Canada's notification, circulated on 7 May 2010, concerning its plant protection policy for marine vessels which may carry AGM. China and other Members had previously expressed concerns about the application of the NAPPO regional standard on AGM. While China recognized Canada's rights to develop phytosanitary measures, China was concerned about the negative effect of the measure on exports and its scientific justification. China requested (i) that Canada provide a risk assessment report of AGM from Chinese-consigned marine vessels prior to implementing the draft regulation; and (ii) that the different climatic conditions of China's ports be considered in determining the risk of AGM. Finally, China suggested that required documentation for marine vessels should be limited to marine vessels that visited ports in regulated areas during the egg laying season of AGM within 1to 2 years to minimize unnecessary trade obstacles.

60. Korea referred to the comments it had sent on Canada's notification. Korea expressed concerns about the measure's proposed adoption date of 1 June 2010 and asked that the measure be implemented with minimum trade impacts.

61. Canada reported that it had held a constructive bilateral meeting with China prior to the Committee meeting. Canada reiterated that the NAPPO measure was being put in place to protect North American forests and pre-empt the high costs of eradication. In 2009, egg masses of AGM were found on ships from Asia. The standard was approved on 10 August 2009, had entered into force in 2010 and would be phased in by March 2012. Canada emphasized that all stakeholders had been consulted during that process, that it continued to take into account the concerns of its trading partners, and that a technical working group had been established to address concerns and risks in a collaborative manner.

CHINA

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINA

Other concerns

296. SPS notification practices

Raised by:	European Union
Supported by:	
Dates raised:	June 2010 (G/SPS/R/59, paras. 15-16)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

62. In June 2010, the European Union expressed concerns over China's SPS notification practices. On 1 June 2009, China's new Food Safety Law had entered into force. This legislation involved many new national food safety measures, creating a framework food safety legislation with the objective of assuring high levels of health protection. While the European Union welcomed the objectives of the legislation, it was concerned that the rapid development of these measures meant that trading partners were not informed of the new legislation before adoption or did not have adequate time to comment prior to enforcement. Trading partners had been notified only after the adoption of the new Food Safety Law even though the legislation included, for example, new measures on dairy products, additives, contaminants, veterinary medicines, and commodities such as honey. China had submitted almost 100 SPS notifications on food additives within a few days, providing only a 15-day deadline for comments. None of the notifications included references to the original text. China had not agreed to requests to extend the period for comments, even to the normally recommended 60-day period, despite the time required for reviewing such a large volume of technical standards. The European Union requested that China clarify its procedure and indicate how it would ensure its SPS notification practices gave reasonable time frames for trading partners to comment and for China to take these comments into serious consideration.

63. China explained that the notification of a large number of national standards in a short time period was the result of the adoption of a new Food Safety Law. Codex and other international standards had been fully considered in the development of the new measures, and as a result China believed that trade effects should be minimal. Members were welcome to continue to make comments, and China would take into account the comments received even after the end of the comment period before the publication of standards, and in future modifications. China was starting to include hyperlinks in the notifications, as recommended, but in all cases the Enquiry Point could provide full texts upon request. China would inform its standard-setting agencies about the EU comments for future improvements in the process.

COLOMBIA

CONCERNS RELATED TO MEASURES MAINTAINED BY COLOMBIA

Animal health

298. Import restrictions on Brazilian beef

Raised by:	Brazil
Supported by:	
Dates raised:	June 2010 (G/SPS/R/59, paras. 19-20)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

64. In June 2010, Brazil expressed concerns regarding the lack of reaction by Colombian authorities to a Brazilian proposal for a sanitary certificate for the export of beef to Colombia. In 2006, Brazil had presented a certificate to export meat products to Colombia, however, in February 2007 Colombia had indicated that this proposal did not fulfill its requirements. In 2007, Brazil had presented a new version of the certificate but despite various diplomatic contacts and bilateral meetings, Brazil still had not received a response from Colombia regarding its risk analysis.

65. Colombia reported that in November 2006, the Brazilian embassy in Colombia had requested a template for the official export certification of edible beef products. In November 2006, the Colombian Agricultural Institute (ICA) had requested the Brazilian Ministry of Agriculture (MAPA) to provide a clarification regarding which products would be covered by the proposed health certificate. Colombia had not yet received an answer to this communication. In February 2008, ICA had began the process of risk analysis for the importation of bovine and buffalo products by sending a questionnaire to MAPA, and in June 2008 had undertaken a verification visit regarding MAPA measures for bovine disease control. ICA had sent the report of the visit to Brazil in November 2008, but had not received any response to the report. Such a response was necessary in order to continue the process solicited by Brazil.

CROATIA

CONCERNS RELATED TO MEASURES MAINTAINED BY CROATIA

Animal health

311. Restrictions on poultry and poultry products - Maintained by Croatia and Albania (See item 311, page 1)

EUROPEAN UNION

CONCERNS RELATED TO MEASURES MAINTAINED BY THE EUROPEAN UNION

Food safety

295. Artificial colour warning labels

Raised by:	United States
Supported by:	Mexico, New Zealand
Dates raised:	March 2010 (G/SPS/R/58, paras.28-30), June 2010 (G/SPS/R/59, paras. 45-47), October 2010 (G/SPS/R/61, paras. 39-40)
Relevant document(s):	G/SPS/N/EEC/291 and Add.1
Solution:	

Status:	Not reported
Date reported as resolved:	

66. In March 2010, the United States raised concerns about EU Regulation (EC) 1333/2008 on food additives. Article 24 of the Regulation required warning statements on food products that contained one or more of six colour additives: Sunset Yellow (E110), Quinoline Yellow (E104), Carmoisine (E122), Allura Red (E129), Tartrazine (E102), and Ponceau 4R (E124). The United States was particularly concerned with the scientific basis of the regulation, its potential negative impact on international trade, and the transparency of its adoption. Most of these six colour additives were widely used by the food industry in products such as confectionaries and beverages. When the regulation was notified to the WTO Secretariat (G/SPS/N/EEC/291), it did not contain the provision on warning statements, and the United States was not aware of an addendum to the original notification. Statistics from the University of Southhampton and the European Food Safety Authority (EFSA) did not substantiate a link between the individual colours and possible behavioural effects in infants. The United States was also concerned that the European Union planned to implement the measure in July 2010.

67. New Zealand and Mexico supported the concerns raised by the United States, noting that the measure did not seem to be based on scientific evidence.

68. The European Union stressed that the issue of colorants was a complex and delicate matter, especially in confectionary and beverages consumed by children and infants. The identified additives raised concerns related to health problems in children, such as hyperactivity, attention loss, and deficit-disorder. The study by the University of Southhampton raised concerns and media interest, which led shops and retailers to phase out the sale of products containing those food additives. The new EU regulatory regime on additives and colorants was not an import ban but only introduced certain specific labeling provisions. An opinion from EFSA concluded that although the changes noticed in child behaviour were small, they were statistically significant. The European Union also clarified that an addendum to the original notification had been submitted to the WTO Secretariat (G/SPS/N/EEC/291/Add.1). The new measure allowed for an 18-month transitional period before entering into force. The measure was not discriminatory, since it is applied equally to European producers and imports from third countries.

69. In June 2010, the United States reiterated concerns about EC Regulation 1333/2008 on food additives. The United States was particularly concerned that even though EFSA was unable to substantiate a link, the European Union planned to implement the measure in July 2010. The United States had recently petitioned the European Union to delay implementation and would shortly provide the European Union with more than 580 studies to warrant a thorough scientific review of relevant evidence.

70. New Zealand and Mexico supported the concerns raised by the United States.

71. The European Union clarified that the labeling requirement had been adopted in December 2008 and included a transitional period of 18 months for implementation, which would expire on 20 July 2010, allowing industry time to comply. This measure had been notified by the European Union as a draft on 10 August 2006 (G/SPS/N/EEC/291) and as an addendum with the final text on 2 July 2009 (G/SPS/N/EEC/291/Add.1). A 2007 study by the University of Southampton had concluded that exposure to some mixtures of colorants resulted in increased hyperactivity in 3-year old and 8- to 9-year old children. The new EU regulatory regime on artificial colorants was not an import ban but only introduced certain specific labeling provisions. An opinion from EFSA had concluded that although the changes noticed in child behaviour were small, they were statistically significant. Until

new elements demonstrated the absence of those effects, the European Union's position would remain unchanged. The European Union encouraged the United States to share any additional scientific data as it became available.

72. In October 2010, the United States reiterated its concerns about EC Regulation 1333/2008 on food additives. The United States was concerned that even though EFSA was unable to substantiate a link, the European Union implemented the measure in July 2010, disregarding available pertinent information from relevant international organizations, such as the Joint FAO/WHO Expert Committee on Food Additives. The United States requested information from the European Union on any further expansion of the list of additives to be subjected to the warning labels.

73. The European Union clarified that the new EU regulatory regime on artificial colorants used in food products was not an import ban but only introduced certain specific labeling provisions. The labeling requirements had entered into force in July 2010 and had not had any noticeable effect on trade. A transitional period of 18 months for implementation had been provided, allowing industry time to comply. The European Union would continue the evaluation, through EFSA, of all food additives to avoid any unnecessary trade disruption. The European Union pointed out that at its March 2010 session, the Codex Committee on Food Additives had postponed the decision to adopt new provisions for one of the Southampton colours, Ponceau 4R, in soybean-based beverages due to safety concerns. Until new elements demonstrated the absence of adverse effects of the Southampton colorants, the EU position would remain unchanged.

306. Maximum residue levels of pesticides

Raised by:	India
Supported by:	Brazil, Pakistan, Thailand
Dates raised:	October 2010 (G/SPS/R/61, paras. 17-19)
Relevant document(s):	G/SPS/N/EEC/196/Add.2, G/SPS/N/EEC/196/Add.10, G/SPS/N/EEC/382, EU Revised Plant Protection Regulation 1107/2009, EC Regulation 396/2005.
Solution:	
Status:	Not reported
Date reported as resolved:	

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

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

76. The European Union explained that the new legislation on pesticide residues was in place since 1 September 2008. MRLs had undergone a common EU consumer intake assessment carried out by the European Food Safety Authority (EFSA) to make sure that all classes of consumers, including vulnerable ones such as babies and children, were sufficiently protected. The validated analytical methods used by the European Union could be found on the website of the EU Reference Laboratories for Residues of Pesticides. The model used for estimating the dietary intake of 27 EU consumer groups was available on the EFSA website. The risk assessment methodology used for setting the MRLs came from the framework established by the Codex, as described by a 2002 Joint FAO/WHO Meeting on Pesticide Residues' (JMPR) report. An LOD was set when there was a safety concern for consumers from the use of a pesticide at high levels or when there was no authorized use on a specific crop within the European Union or third countries. The proposed revisions of the EU MRLs had been notified to the WTO in 2003, 2005 and 2007, and all WTO Members and stakeholders had also been informed about all the individual values that were proposed. The MRLs were fixed and published in the Official Journal if no reaction to the notifications had been received. Nevertheless, applicants in and outside the European Union could apply to have import tolerances set for higher MRLs in specific cases. Although the European Union was aware of the different geo-climatic conditions in India, data on the safety of imported products was still necessary.

Animal health

300. EC Regulation No. 1099/2009

Raised by:	India
Supported by:	China, Viet Nam
Dates raised:	June 2010 (G/SPS/R/59, paras. 24-27), October 2010 (G/SPS/R/61, paras. 31-33)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

77. India raised concerns about EC Regulation No. 1099/2009, dated 24 September 2009, regarding the humane treatment of animals at the time of slaughter, which was to enter into force on 1 January 2013. Under Article 12 of the regulation, the import of meat from third countries must be supplemented by a health certificate indicating that requirements at least equivalent to those established in Chapters II and III of the regulation had been met. According to India, this specific regulation had not been notified by the European Union despite being a trade-restricting measure. India sought clarification on the justification for this regulation and for animal welfare requirements that may not fall under the SPS Agreement. India also inquired about: (i) how equivalence may be assessed, including details of the certification process; and (ii) how EU experts would ensure that animals were slaughtered in humane conditions and received clearance from the European Union.

78. China supported the concerns raised by India and noted that it would continue to follow the issue.

79. The European Union reported that the regulation would enter into force on 1 January 2013 and was based on two publicly available scientific opinions which had been forwarded to the Indian authorities. The European Union clarified that regulations regarding animal welfare conditions at the time of stunning and slaughter had been in place since 1993, and that regulation No. 1099/2009 re-addressed the issues, but did not impose new requirements. The European Union believed that the measures were not more restrictive than necessary and that the regulation recognized the principle of equivalence. The system had proven to be effective over a 15-year time period and other countries had developed similar legislation, based on the OIE Code and consistent with international standards. Nevertheless, the European Union would ensure continued cooperation among experts to address any concerns before the legislation entered into force in 2013.

80. The OIE clarified that if the measures were to control animal health, including ante- and post-mortem inspections, then they were relevant to SPS. Although animal welfare was not an SPS-related issue, OIE members had adopted a resolution in 2004 for OIE to undertake further work on animal welfare issues, and OIE members had the opportunity to comment on those standards, particularly through the Animal Welfare Working Group.

81. In October 2010, India again expressed concern that the EU regulation contained animal welfare requirements that would be trade restrictive, and as the slaughter of animals was a sanitary issue, this measure should be notified to the WTO. Although the regulation was based on OIE standards, only those OIE standards that had the objective to control animal health, including ante- and post- mortem inspections, fell within the scope of the SPS Agreement. The new regulation introduced animal welfare requirements beyond those that had been in place since 1993, and therefore the European Union should notify the regulation to the WTO and give Members time to submit comments. India asked: (1) how trade issues would be linked with animal welfare issues; (2) how equivalence of measures would be assessed; (3) whether the provisions of Article 12 of the EU regulation were in line with any WTO agreements; and (4) whether Article 5 of the regulation would require that all establishments exporting meat receive a prior clearance from the European Union.

82. Viet Nam noted that it shared India's concerns, in particular relating to fishery products.

83. The European Union indicated that the regulation was based on scientific findings, in particular two scientific opinions by the European Food Safety Authority in 2004 and 2006. These scientific opinions were publicly available and had been provided to India. As a major importer of meat products, and as a result of consumer preferences, the European Union required that certain animal welfare conditions be met at the time of slaughter. The measures contained in Article 12 of Regulation 1099/2009 were not more trade restrictive than those currently enforced. There was no obligation for countries to apply the same or identical measures, but measures that were equivalent in achieving the same aims were acceptable. The principle of equivalence had existed and been applied since 1993. The regulation took into account the international animal welfare standards on the slaughter of animals developed by the OIE. It was the role of the EU Food and Veterinary Office to evaluate the equivalence of measures implemented in countries exporting to the European Union. The European Union welcomed collaboration between experts on animal welfare, as in the ongoing bilateral agreement with India, to exchange technical knowledge and achieve a common understanding on equivalency.

Plant health

81. Wood packing material

Raised by:	Canada
Supported by:	Chile, Japan, Korea, United States

Dates raised:	November 2000 (G/SPS/R/20, paras. 33-35), March 2010 (G/SPS/R/58, paras. 52-53)
Relevant document(s):	G/SPS/N/EEC/93
Solution:	Adoption of IPPC standard (ISPM 15)
Status:	Resolved
Date reported as resolved:	March 2010

84. In November 2000, Canada drew the Committee's attention to the European Communities' proposed measures on solid wood packaging material, notified as G/SPS/N/EEC/93. Canada recognized that wood packing material was widely considered to be at risk of containing plant pests. However, it was used for a very large volume of products moving in international trade, and the proposed EU measure would cover 69% of Canada's exports to the European Union. Furthermore, the IPPC was working on a comprehensive standard for all countries and all pests, to be completed by July 2002, it would be best for all countries to focus their efforts on developing an international standard and refrain from taking unilateral actions in this regard.

85. The United States considered that it would be impossible to implement the certification and marking requirements within the time-period set out in the EU notification. Korea stressed the need for the European Union to implement the least trade restrictive measure which would be effective, and in this respect to take into consideration the historic experience of trade without pest introduction, the processing of the packing materials, and the actual pest risks involved.

86. The European Union replied that pine wood nematode had been detected in packing materials in 1998 and 1999, despite the existing EU requirements on wood packing materials. The EC Regulatory Committee for Plant Health was examining the comments which had been submitted on the EU notification. The European Union was actively contributing to the IPPC efforts to develop an international standard, however this did not replace the need for an emergency measure to protect EU forests. It was now obvious that the EU measure would not be finalized and implemented on the 1 January 2000 date as initially proposed, and that bilateral and multilateral consultations would continue.

87. In March 2010, Canada announced the resolution of its concerns regarding EU phytosanitary requirements for non-manufactured solid wood packaging, first raised in November 2000. At the time, Canada and others had been working on an international standard for wood packaging material. In 2002, the IPPC had adopted ISPM 15 for the regulation of wood packaging material in international trade. Canada supported the IPPC standard, and now agreed that there was no substantial difference between ISPM 15 and the EU phytosanitary requirement for wood packaging. Canada had no objection to the EU legislation for solid wood packaging and wished to close this trade concern.

88. The European Union recalled that this issue had been raised by several Members, who had requested a delay in the entry into force of the measure. The European Union considered that the resolution of this issue was also been a success in terms of the provision of special and differential treatment.

293. Risks arising from carambola fruit fly in French Guyana – Maintained by France

Raised by:	Brazil
Supported by:	
Dates raised:	March 2010 (G/SPS/R/58, paras. 23-24)

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

89. In March 2010, Brazil expressed concerns regarding delays in eradicating the carambola fruit fly from the area close to the common border between French Guyana and Brazil. The carambola fruit fly posed a real risk of spreading in the country and could negatively affect many producers. A protocol of cooperation in the control and eradication of the carambola fruit fly was signed between Brazil and France in 2002. However, France had suspended the protocol in 2005 without providing a sufficient justification. A meeting of experts from both parties with an independent expert was yet to be scheduled. Brazil was mainly concerned that the delay in the resolution of this problem might result in severe loses to its fruit producers.

90. The European Union reported that the French authorities were awaiting a reply by Brazil to a letter dated 10 November 2009, so the situation could be dealt with accordingly.

INDIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Animal health

185. Restrictions due to avian influenza

Raised by:	European Union
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), March 2010 (G/SPS/R/58, paras. 37-40), June 2010 (G/SPS/R/59, paras. 39-41), October 2010 (G/SPS/R/61, paras. 25-28)
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:	

91. The European Union 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 Union since the European Union was free of highly pathogenic avian influenza. India was requested to lift the restrictions on EU products. The United States shared the concerns of the European Union.

92. 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.

93. In June 2004, the European Union stated that India continued to apply import bans on a range of poultry products from several countries allegedly in response to highly pathenogenic avian influenza. India was requested to review the current ban and lift all restrictions on poultry products from the European Union. India responded that the measures prohibiting poultry and poultry products had been implemented as temporary measures. New outbreaks of highly pathenogenic avian influenza (HPAI) in WTO Members, but not within the territories of the European Union, 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.

94. In October 2004, the European Union stated that India had issued two notifications, on 7 July and on 6 August 2004, 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.

95. 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.

96. The European Union 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.

97. 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.

98. 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.

99. The European Union 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 Union encouraged India to follow the recommendations from the OIE.

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

101. 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.

102. In April 2008, the European Union indicated that India continued to ban certain EU 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 Union considered also that India's ban on pigmeat and pork products based on AI concerns was disproportionate to the risk. Although the European Union had requested information regarding what needed to be done to regain free status, India had not provided any response. As indicated previously, the European Union 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 Union questioned whether Indian domestic products would be subject to the same treatment as imported goods.

103. 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.

104. 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.

105. 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.

106. 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 Union 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.

107. The European Union 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.

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

109. Canada supported the EU 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.

110. The United States supported the concerns raised, observing that India's measures 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.

111. 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.

112. In October 2008, the European Union 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 Union urged India to review the import restrictions on live animals and different products of animal origin.

113. 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 a 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.

114. 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.

115. 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.

116. 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 Union 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 had 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.

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

118. 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.

119. 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.

120. 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.

121. 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.

122. 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.

123. 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.

124. 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.

125. 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.

126. 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.

127. 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.

128. 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.

129. 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.

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

131. The European Union supported the US concerns regarding India's ban on import of a number of products and live animals that, according to the OIE, should not be restricted. The European Union highlighted the importance of the use of the SPS notification system by India. The European Union also repeatedly requested India's risk assessment for its AI measure, but had not obtained it. Moreover, India did not recognize the regionalization principle, as applied in the European Union whenever an outbreak of AI occurred.

132. The OIE encouraged WTO Members to implement the OIE standards on AI, since they were based on science and had been democratically approved. The OIE standards on AI had not been changed recently.

133. India reported that as notified, it imposed an import ban on live pigs, poultry and other poultry products from countries reporting either the H5 or H7 strains of AI. There was no import ban

on live pigs, poultry or poultry products from countries reporting AI in wild birds, other than poultry. The ban was imposed on countries with both Low Pathogenic AI (LPAI) and High Pathogenic AI (HPAI), as the LPAI virus might mutate into HPAI virus. India conducted a detailed risk analysis for the importation of animal and animal products, by a committee of experts, based on the existing global situation of AI, available scientific literature and the OIE standards. The justification for imposing the ban on live pigs was due to the fact that pigs were known to act as mixing vessels for human, animal and other influenza viruses. The ban on pigs would be reviewed after the completion of some technical studies.

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

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

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

137. In October 2010, the United States indicated that India stood alone among the world's leading trading partners with respect to the scope of the bans it imposed and the severity of its avian influenza (AI)-related import requirements. India's bans and import requirements were not in keeping with the OIE established standards. India continued to maintain the AI bans as emergency measures, and prohibited the import of live pigs and a wide range of avian species and products without providing a scientific justification for exceeding the international standards. Despite repeated requests, India had

not provided its risk assessment until the October 2010 SPS Committee meeting. Moreover, India had failed repeatedly to notify its AI-related import restrictions in a timely manner. In March 2010, India had announced a new extension of its emergency measures, and also that products from countries reporting any notifiable AI in domesticated or wild birds would be banned. Those new measures had not been notified to the WTO.

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

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

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

INDONESIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDONESIA

Animal health

305. Import restrictions on beef and recognition of the principle of regionalization

Raised by:	Brazil
Supported by:	
Dates raised:	October 2010 (G/SPS/R/61, paras. 15-16)
Relevant document(s):	Raised orally. Indonesia's Regulation 82/200.
Solution:	
Status:	Not reported
Date reported as resolved:	

141. In October 2010, Brazil expressed concerns over Indonesia's Regulation 82/200, which did not seem to comply with Article 6 of the SPS Agreement. Indonesia had notified revisions to the law which would have permitted recognition of disease-free regions, and the authorities had engaged in bilateral discussions regarding imports of meat from Brazil. In August 2010, however, the Indonesian

courts had annulled that aspect of the legislation. Brazil expected the Indonesian authorities to take all necessary measures to revise the law, and to notify this to the WTO. Brazil already had OIE recognition of its FMD-free status.

142. Indonesia observed that the country had about 7,000 islands, and it had taken Indonesia almost 100 years to eradicate FMD. The Government had sought to develop regulations that were consistent with international standards, but these had been challenged in the constitutional court. Imports from regions where FMD had not been completely eradicated were therefore prohibited.

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, Ecuador, 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), October 2009 (G/SPS/R/56, paras. 50-52), March 2010 (G/SPS/R/58, paras. 31-32), June 2010 (G/SPS/R/59, paras. 37-38)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported
Date reported as resolved:	

143. 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.

144. 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.

145. 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.

146. 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.

147. 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.

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

149. 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.

150. 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.

151. 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.

152. In October 2009, China recalled that after the implementation of Japan's positive list system for chemical residues, China and many other WTO 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.

153. 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 provided. Ecuador requested Japan to modify its MRLs in accordance with international standards.

154. 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 adopted for food additives.

155. In March 2010, China reiterated the concerns regarding Japan's MRLs and its enforcement system, which should be based on scientific evidence and applied in a least-trade restrictive manner. According to China, out of approximately 50 thousand MRLs in Japan, more than 40 thousand were "temporary" standards, which were neither based on scientific evidence nor risk assessments as required by the SPS Agreement. Less than 50 per cent of the "temporary" standards had been reviewed by the end of 2009, although they had been applied for almost five years, creating serious obstacles to China's food exports to Japan. Moreover, Japan's "uniform standard" of 0.01 ppm MRL for several products was not based on scientific evidence. MRLs should be set according to the different levels of exposure through different food products, toxicology evaluations and acceptable daily intake (ADI) levels consistently with international practice. In addition, Japan's enforcement system of MRLs was neither reasonable nor transparent, as sometimes Japan inspected 100 per cent of China's food exports, known as "order inspections". By way of examples, Japan set a 2 ppm MRL for pyrimethanil in scallion, while for shallots Japan applied the "uniform standard" of 0.01 ppm. Japan also applied the 0.01 ppm "uniform standard" for chlorpyrifos in matsutake, while the Codex standard for chlorpyrifos in edible fungi was 0.05 ppm. China also asserted that Japan applied a less favourable treatment to imported food products than to Japanese products.

156. Japan responded that the "uniform limits" had been established after holding consultations and receiving opinions from health experts based on: (i) acceptable exposure levels determined by the evaluations conducted by the Joint FAO/WHO Expert Committee on Food Additives (JECFA), and evaluations on indirect additives by the United States Department of Agriculture (USDA); (ii) acceptable dairy intake for pesticides and veterinary drugs evaluated by JECFA; and (iii) the default level of 0.01 ppm established by the European Union. According to the Japanese system, the Ministry of Health, Labour and Welfare conducted an evaluation before allowing pesticide residues in food products. This evaluation was based on individual pesticide residue data for each commodity. Any exporter could apply to the Ministry of Health, Labour, and Welfare to request the evaluation of specific data on MRLs.

157. In June 2010, China reiterated its concerns regarding Japan's MRLs and their enforcement system. China welcomed the SPS cooperation arrangement recently signed between Japan and China and the first round of technical consultations which had taken place under the new arrangement. Nevertheless, China wished to reiterate its concerns regarding the temporary standards under Japan's Positive List scheme, the lack of scientific basis for those standards, and a lagging review process.

158. Japan responded that its Positive List system had been established in 2006 after consulting existing MRLs from Codex, Australia, Canada, New Zealand, the European Union and the United States, based on a scientific evaluation. Japan stated that its standard-setting process was in line with the SPS Agreement, and that it had notified its draft MRLs to the WTO, providing Members an opportunity to submit comments.

283. Pesticide maximum residue levels (MRLs)

Raised by:	Brazil
Supported by:	China, Ecuador
Dates raised:	June 2009 (G/SPS/R/55, paras. 36-38), October 2009 (G/SPS/R/56, paras. 50-52), October 2010 (G/SPS/R/61, paras. 37-38)
Relevant document(s):	Raised orally.
Solution:	

Status:	Not reported
Date reported as resolved:	

159. 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.

160. 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.

161. 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.

162. 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.

163. 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.

164. 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.

165. In October 2010, Ecuador raised concerns over Japan's 2006 Food Health Act establishing new MRLs for food products of plant and animal origin, intended for human consumption. Products with concentrations of residues above those limits could not be imported, processed, used or stored for sale in Japan. The Food Health Act established a list of 158 chemicals and their corresponding MRL for food, and substances. The establishment of such stringent limits had meant that shipments of Ecuadorian cocoa in which 24D was present had been rejected by Japan, causing significant costs to Ecuador cocoa exporters and producers. Despite constructive bilateral discussions, no solution had been found, and Ecuador requested more information on the process used by Japan to set its MRLs measures and asked for swift notification by Japan of anomalies or lack of compliance with cocoa exports regulations.

166. Japan stated that based on the Japanese Positive List System, the Ministry oh Health, Labour and Welfare (MHLW) established individual MRLs in food commodities through safety evaluations and residue studies. Japan adopted Codex MRLs as Japanese MRLs where the necessary requirements were met. If Ecuador wanted Japan to establish MRLs for specific pesticides, an application had to be submitted to the MHLW. In addition, Japan would consider relevant applications for modifications and revise current MRLs as appropriate.

307. Prohibition of certain food additives

Raised by:	India
Supported by:	
Dates raised:	October 2010 (G/SPS/R/61, paras. 20-21)
Relevant document(s):	G/SPS/N/JPN/255.
Solution:	
Status:	Not reported
Date reported as resolved:	

167. In October 2010, India expressed concerns over Japan's proposed withdrawal of 80 food additives in May 2011, which had been notified to the WTO in July 2010 (G/SPS/N/JPN/255). The decision to prohibit the use of these additives was apparently based on a survey and the analysis of public comments. The survey considered the sale, manufacturing, import, processing, use, storage and display of such substances in Japan's market. India was concerned that the requirements of Article 2 of the SPS Agreement had not been fully considered, as the survey did not provide any indications that the additives were hazardous to human health, nor had a risk assessment been undertaken by the Japanese authorities, and international standards had not been followed. Of the 80 food additives to be withdrawn, at least 33 substances were allowed in other countries, including Korea and the United States, in line with Codex or country specific standards. India urged Japan to follow the provisions of the SPS Agreement before deciding to prohibit the use of the food additives, and suggested that Codex could be requested to examine the risks associated with those food additives.

168. Japan recalled that according to the revision of the Japanese Food Sanitation Law in 1995, natural additives became subject to prior approval by the Ministry of Health, Labour and Welfare. Therefore, whether natural or synthetic, no additive could be used unless it was approved by the Ministry. The concept of "existing food additives" was established in 1995 and referred to substances that were derived from natural origin and that had been used before 1995 without prior approval. However, their safety had not been verified or examined based on a safety assessment, and Japan would be systematically verifying the safety of existing food additives. Japan considered that it was justifiable to eliminate those substances for which there was no actual use or distribution in Japan, and

hence would not lead to any restriction of trade. Japan had previously directly contacted embassies and trade groups in response to requests received on this issue. In 2009, Japan had carried out a survey on 125 substances and, based on the survey results, had prohibited these 80 additives since they were no longer in use in the domestic market. Should Members nevertheless have further comments on this notification, these should be submitted by 17 November 2010 at the latest.

MALAYSIA

CONCERNS RELATED TO MEASURES MAINTAINED BY MALAYSIA

Plant health

294. Import restrictions on plant and plant products

Raised by:	Brazil
Supported by:	Japan
Dates raised:	March 2010 (G/SPS/R/58, paras. 25-27)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

169. In March 2010, Brazil expressed concerns related to Malaysia's import restrictions on plants and plants products due to a regulation on South American leaf blight disease. Brazil considered that the regulation did not have a scientific justification. Malaysia's import restrictions were apparently based on a provision in the constitutive text of the Asia and Pacific Plant Protection Commission (APPPC) on South American leaf blight disease. However, other parties to the APPPC did not apply this provision to Brazil. A representative of FAO conducted a pest risk analysis to verify whether the South American leaf blight disease represented a risk to Malaysia, but no risk had been identified. Therefore, Brazil requested that Malaysia allow the importation of plants and plants products from Brazil.

170. Japan observed that the trade restriction was also a concern for Japan. Japan recognized the efforts of the APPPC to amend its regulation so as to be consistent with the SPS Agreement.

171. Malaysia indicated that they had not receive any information from Brazil in advance of the meeting and, thus, could not consult with technical officials. Malaysia invited Brazil to send its concern in writing so a response could be provided.

MEXICO

CONCERNS RELATED TO MEASURES MAINTAINED BY MEXICO

Animal health

312. Restrictions on beef exports due to BSE-related concerns

Raised by:	Nicaragua
Supported by:	
Dates raised:	October 2010 (G/SPS/R/61, paras. 162-164)

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

172. In October 2010, Nicaragua raised concerns regarding Mexican restrictions on its beef exports because of BSE-related concerns. Nicaragua had requested Mexico to recognize its status as a "controlled risk" country, in line with its submission to the OIE. In addition, Mexico failed to approve Nicaraguan slaughterhouses, despite the fact that these had been approved by other countries.

173. The representative of the OIE stressed that according to the OIE standard, de-boned beef was a safe commodity with regard to BSE, irrespective of the BSE status of a country.

174. Mexico indicated that they were willing to work bilaterally with the government of Nicaragua to resolve these difficulties.

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), March 2010 (G/SPS/R/58, Paras. 54-55)
Relevant document(s):	G/SPS/N/MEX/184/Add.1.
Solution:	Agreement reached.
Status:	Resolved
Date reported as resolved:	21 January 2010

175. 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.

176. 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.

177. 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.

178. 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.

179. In March 2010, Mexico indicated that on 21 January 2010 Mexico had removed the absolute restrictions on rice imports due to the Khapra beetle and replaced it with partial restrictions. This had been notified as G/SPS/N/MEX/184/Add.1. Pakistan and other countries that complied with the new phytosanitary requirements should be able to export rice to Mexico.

180. Pakistan was grateful to Mexico for resolving the issue and hoped that this would lead to an increase in economic cooperation and trade between the two countries.

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 6)**

SENEGAL

CONCERNS RELATED TO MEASURES MAINTAINED BY SENEGAL

Animal health

303. Import restrictions on poultry meat

Raised by:	Brazil
Supported by:	
Dates raised:	June 2010 (G/SPS/R/59, paras. 34-36)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

181. In June 2010, Brazil raised concerns regarding Senegal's import restriction on poultry meat, in place since 2005. Brazil, while recognizing Senegal's right to protect itself against diseases, recalled the OIE guideline that a Member could establish measures if avian influenza was detected. Brazil stated that its products fulfilled all international requirements and that avian influenza had not been reported in its territory. Brazil had provided Senegal with all the information needed for a risk analysis, and had asked in March and May 2010 for scientific justification of Senegal's import restrictions. Brazil concluded that it was looking forward to receiving technical feedback to allow the export of Brazilian poultry meat to Senegal.

182. Senegal stated that the Senegalese authorities had only received Brazil's request a few days prior to the Committee meeting, and that a reply would be provided to Brazil as soon as possible.

183. ECOWAS reported that at a meeting in Cape Verde, ECOWAS members had held high level discussions on the issue. ECOWAS hoped that the issue would be resolved amicably.

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

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINESE TAIPEI

Animal health

291. BSE measures

Raised by:	Canada
Supported by:	
Dates raised:	March 2010 (G/SPS/R/58, paras. 19-20)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

184. In March 2010, Canada expressed concerns over Chinese Taipei's BSE measures. In May 2007, the OIE had recognized Canada as a "controlled BSE risk" country, and in July 2007 Chinese Taipei resumed partial trade with Canada by allowing access for boneless beef from animals under 30 months of age. However, despite numerous technical discussions, an inspection visit to Canada, the completion of a risk assessment, and a formal arrangement on conditions for bone-in beef from animals under 30 months, no further market access had been granted by Chinese Taipei. In January 2010, Chinese Taipei approved an amendment to its food sanitation act banning the import of offal and certain other bovine products from countries affected by BSE. Canada was concerned about the recent amendments to Chinese Taipei's legislation, and requested that all necessary steps be taken to ensure that the import conditions of Chinese Taipei were consistent with the recommendations and guidelines provided by the OIE.

185. Chinese Taipei explained that the recent 16th and 17th cases of BSE in Canada necessitated a new risk assessment of bone-in beef. Pending completion of the new risk assessment, the current regulations on imports of bone-in beef from Canada would remain in force. Chinese Taipei maintained that its BSE regulation was consistent with the SPS Agreement.

TURKEY

CONCERNS RELATED TO MEASURES MAINTAINED BY TURKEY

Other concerns

302. Restrictions on products derived from biotechnology

Raised by:	United States
Supported by:	Argentina, Canada
Dates raised:	June 2010 (G/SPS/R/59, paras. 30-33), October 2010 (G/SPS/R/61, paras. 34-36)
Relevant document(s):	G/SPS/N/TUR/8

Solution:	
Status:	Not reported
Date reported as resolved:	

186. In June 2010, the United States raised concerns about the development of Turkey's regulatory system for agricultural biotechnology (G/SPS/N/TUR/8). In the eight months since Turkey had begun implementing new biotech measures, Turkey had announced both a Biosafety Law and several implementation measures. However, only two of those implementation measures had been notified to the WTO and one of those was notified as "effective immediately" with no comment period. The United States was concerned that compliance requirements were not shared publicly, and that regulations prohibiting the presence of biotechnology in products for infants and children did not refer to a risk assessment, hence leading to a lack of predictability in the approval process. The United States asked for clarification on the status of current approvals, the approvals process, and how the process would change after the Biosafety Law was enforced on 26 September 2010.

187. Canada stated that it would continue to monitor the implementation of Turkey's Biosafety Law and its impacts on Canadian exports of genetically and non-genetically modified commodities. Canada hoped that the new law would take into account scientific assessments and would not be more trade restrictive than necessary.

188. Argentina supported the concerns raised by the United States, noting that the Turkish standards were not consistent with the SPS Agreement or Codex standards, and were unfavourable to modern biotechnology products. Argentina expressed deep concern about the measures and hoped that they would be revised based on the SPS Agreement and Codex standards.

189. Turkey stated that in 2009 and 2010 it had notified its legislation related to biosafety issues whose objectives were to: (i) establish and implement a biosafety system for human, animal and plant health; (ii) ensure the conservation of the environment and biodiversity and their sustainability; and (iii) establish science-based regulations and monitoring principles and procedures. Previous Turkish legislation and the Cartagena Protocol had been used as reference documents, as well as EU accession documents. Turkey had endeavoured to address the concerns raised by the United States, Canada and Argentina regarding its notifications, including issues caused by mistranslation. Turkey indicated that it would draft and notify secondary regulations to the WTO, to clarify misunderstandings.

190. In October 2010, the United States welcomed Turkey's notification of the implementation of its new biotech measures, however the development and implementation of the law had not been transparent nor timely. The United States appreciated the valuable trade in agricultural products with Turkey and wished to re-establish market access for the previously approved products without delay. The United States remained concerned that the system prohibited the presence of biotech products in products for infants and children, as well as the cultivation of biotechnology without reference to a risk assessment or scientific evidence. The United States sought clarifications on the process and criteria used to evaluate approval decisions, and encouraged Turkey to establish written procedures outlining those processes and criteria, as well as to confirm that they were based on science.

191. Argentina expressed concern that the Turkish standards were not consistent with the SPS Agreement or Codex standards, and were unfavourable to modern biotechnology products. Canada stated that the new law had to take into account scientific assessments and not be more trade restrictive than necessary. Canada also urged Turkey to consider delaying the implementation of the regulation for six months until at least 26 February 2011.

192. Turkey recalled that in 2009 and 2010 it had notified its legislation related to biosafety issues whose objectives were to establish a biosafety protection system for human, animal and plant health against risks emerging from GMOs and GMO-based products. There were around 12,000 protected species in Turkey, 3,700 of those being only endemic to Turkey. More than 700 agricultural products could be naturally grown in Turkey, therefore it was critical for Turkey to protect its rich biodiversity from the risks arising from biotech products. Turkey had endeavoured to address the concerns raised by various Members regarding its notifications, and would notify secondary regulations to the WTO, to clarify misunderstandings. Turkey welcomed the opinions of its trading partners to improve its legislation. Turkey further asserted that the implementation of its legislation was science-based and fully complied with WTO and other international rules, as well as with the Cartagena Biosafety Protocol. In addition, Turkey stated that no particular trade restriction had been reported during the preparation and adoption of the legislation or after its enforcement.

UKRAINE

CONCERNS RELATED TO MEASURES MAINTAINED BY UKRAINE

Food safety

288. Import measures on animals and animal products

Raised by:	European Union
Supported by:	Canada, Iceland, Norway, United States
Dates raised:	October 2009 (G/SPS/R/56, paras. 18-20), March 2010 (G/SPS/R/58, paras. 46-48)
Relevant document(s):	G/SPS/N/UKR/3/Rev.1/Corr.1
Solution:	Withdrawal of measure
Status:	Resolved
Date reported as resolved:	7 January 2010

193. 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 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.

194. 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.

195. 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.

196. In March 2010, the European Union highlighted the importance of the notification circulated on 7 January 2010, that Ukraine was withdrawing earlier notified measures on animals and animal products due to BSE and other prion infections. The European Union welcomed the withdrawal of the measure, which would have implied the sudden imposition of an inspection requirement for all export establishments. The draft measure had covered a wide range of animals and animal products and would have caused unnecessary trade disruptions. Along with other trading partners, the European Union had expressed concerns on these draft measures in the SPS Committee and had also held bilateral discussions with Ukraine. The European Union considered this a good example of the importance of the transparency obligations and the SPS notification system. The European Union was willing to continue working closely with Ukraine on further developments of its import system, which should continue operating in a transparent manner with a view to avoiding trade disruptions.

197. Canada and Norway also appreciated the decision to withdraw the notified measure and thanked the Ukraine for its responsiveness. Canada had also raised concerns about this matter and submitted detailed written comments. This was a good example of an effective use of the WTO notification process to avoid trade problems.

198. Ukraine explained that inspections were part of normal procedures. Ukraine had taken into account the concerns expressed at the previous SPS Committee meeting and bilaterally. It was important to ensure that measures were based on science and on OIE standards. Ukraine would continue to cooperate with its trading partners.

UNITED STATES

CONCERNS RELATED TO MEASURES MAINTAINED BY UNITED STATES

Food safety

299. US 2009 Food Safety Enhancement Act

Raised by:	China
Supported by:	India
Dates raised:	June 2010 (G/SPS/R/59, paras. 21-23)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

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

200. India expressed the need to understand the proposed legislation. Indian industry had questions regarding the duration of the registration process, whether it was modeled on international standards, whether foreign government and sector associations would be notified before or after a

food facility was inspected, and how the fast-track process for registration would work. Once it had a better understanding of this process, India would seek further clarification.

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

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), March 2010 (G/SPS/R/58, paras. 33-34), June 2010 (G/SPS/R/59, paras. 42-43)
Relevant document(s):	Raised orally
Solution:	DSU consultations requested on 17 April 2009; request for establishment of a panel on 23 June 2009. Panel composed on 23 September 2009 (WT/DS392)
Status:	Panel report adopted
Date reported as resolved:	25 October 2010

202. 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.

203. 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.

204. 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.

205. 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.

206. 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.

207. The United States indicated that they 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.

208. 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.

209. 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.

210. 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 by the Bill could be used to establish or implement a rule allowing poultry products to be imported 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 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.

211. In October 2009, China stated the 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 onsite 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.

212. 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 fulfill its WTO obligations and to take active steps to eliminate discriminatory measures and normalize bilateral poultry trade.

213. United States stated that 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.

214. In March 2010, China reiterated that Section 743 of the US Agriculture Appropriations Act (AAA) of 2010 set discriminatory requirements on China's processed poultry products. China had raised similar concerns about Sections 733 and 727 of the US Appropriations Acts of 2008 and 2009, respectively. Section 743 was discriminatory in nature, and required a significantly increased level of port of entry re-inspection, the creation of an information-sharing programme with other countries, audits of inspection systems and on-site reviews of slaughtering and processing facilities. These Chinese-specific requirements were not in conformity with Articles 2.2 and 2.3 of the SPS Agreement. Although the United States asserted that Section 743 only established commitments on the Secretary of Agriculture by the US Congress, the new requirements would create substantial obligations for China when exporting poultry products to the United States. At the end of 2007, the USDA had concluded the equivalence recognition process for Chinese poultry inspection and control systems. However, the only remaining task, which was the finalization of the US legislation process, had never been concluded. China was dismayed by recent US comments that the equivalence recognition process for Chinese poultry would need to be restarted.

215. The United States responded that the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act 2010 permitted the USDA to use funds to establish and implement equivalence rules for Chinese poultry. The USDA Food Safety Inspection Service (FSIS) was moving forward with the equivalence process for China and had requested information regarding China's new food safety law on poultry inspection systems, as well as any other changes to China's laws and regulations related to these systems. This type of request was made to any country that had significantly changed its food safety system during an equivalence determination process.

216. In June 2010, China reiterated that Section 743 of the US Agriculture Appropriations Act (AAA) of 2010 set discriminatory requirements on China's processed poultry products. China had previously raised this concern at the October 2009 and March 2010 meetings. At the March meeting, the United States had reported that additional information was being sought regarding China's new Food Safety Law. China stated that it had in fact finalized a recognition of equivalence with the United States at the end of 2007, and therefore Chinese cooked poultry products were able to meet US SPS requirements before the adoption and implementation of the new Food Safety Law. China argued that the Food Safety Law could not be used to impede the ongoing consultation process, and again urged the United States to eliminate discriminatory restrictions on Chinese cooked poultry products.

217. The United States noted that it did not maintain a funding restriction on USDA's ability to move forward with rulemaking related to China's equivalence for poultry. USDA had reached out to

China several times in recent months to move forward with China's equivalence application, specifically asking for an updated application and more information regarding its new Food Safety Law. USDA was committed to ensure that its regulatory policies were based on science and met its international obligations. The United States urged China to work with the USDA on its application of equivalence and to provide the requested information as soon as possible.

301. US Risk Analysis for the Entry of Queen Bees

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

218. In June 20010, Argentina raised concerns about US risk analysis for the importation of queen bees from Argentina into the North American market. Argentina had conducted research and provided information to the US Animal and Plant Health Inspection Service (APHIS). There had been a constructive exchange and Argentina hoped to soon report the satisfactory conclusion of the risk assessment.

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

Plant health

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 6)**

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), March 2010 (G/SPS/R/58, paras. 44-45), June 2010 (G/SPS/R/59, paras. 52-53)
Relevant document(s):	G/SPS/N/USA/1921

Solution:	
Status:	Not reported
Date reported as resolved:	

220. 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.

221. 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.

222. 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.

223. 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 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.

224. 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.

225. In March 2010, China reiterated concerns regarding US restrictions on wooden handicrafts from China (G/SPS/N/USA/1921). The notified draft regulation would apply to all wooden handicrafts from China although the risks which had triggered the import ban were only associated with wooden handicrafts with a diameter over one centimetre. China hoped that the United States would limit the scope of the measure to products presenting real risks. According to the draft

regulation, all wooden handicrafts from China would be subject to fumigation or heat treatment and require plant quarantine certificates, which would unnecessarily raise costs for the Chinese handicraft industry and plant quarantine authorities. China had made these points in its written comments on the US notification and invited the United States to take the comments into account when finalizing the regulation. To date, China had received no reply from the United States. China was willing to continue cooperating and hoped that the United States would take concrete steps to address China's concern.

226. The United States explained that a proposed rule to reauthorize the importation of wooden handicrafts form China subject to specific requirements had been published in April 2009 and notified as G/SPS/N/USA/1921. The proposal would allow trade in a broad range of handicrafts to resume while continuing to protect the United States against the introduction of plant pests such as wood boring beetles. The comment period on this notification had closed on 8 June 2009, and the United States had received eight comments, including comments from China. The USDA's Animal and Plant Health Inspection Service would promulgate an additional proposed rule that would address China's concerns, and subsequently a final rule, after evaluation of public comments.

227. In June 2010, China reiterated the concerns regarding US restrictions on wooden handicrafts from China (G/SPS/N/USA/1921). The notified draft regulation would apply to all wooden handicrafts from China and would unnecessarily raise costs for the Chinese handicraft industry and plant quarantine authorities. China had made these points in its written comments on the notification and hoped they would be taken into account when finalizing the regulation.

228. The United States explained that the emergency action of April 2005 only prevented the import of wood handicrafts with attached bark. Chinese-origin wood handicrafts remained enterable with the bark removed and properly treated. However, to address China's market access concern, the United States had published a proposed rule to reauthorize the importation of Chinese-origin wood handicrafts subject to specific requirements. The proposal, notified on 27 April 2009 as G/SPS/N/USA/1921, would allow resumed trade in a broad range of handicrafts while continuing to protect the United States against the introduction of plant pests such as wood boring beetles. The USDA's Animal and Plant Health Inspection Service would promulgate an additional proposed rule addressing China's concerns, and subsequently a final rule, after evaluation of public comments.

292. Prohibition of Ornamental Plants Larger than 18 inches

Raised by:	Costa Rica
Supported by:	
Dates raised:	March 2010 (G/SPS/R/58, paras. 21-22)
Relevant document(s):	Raised orally.
Solution:	
Status:	Not reported
Date reported as resolved:	

229. In March 2010, Costa Rica referred to the US restrictions on the importation of ornamental plants larger than 18 inches, based on the US Code of Federal Regulation, section 37, part 319, title 7 (7 CFR § 319.37). Costa Rica reported that in early 2000, it had conducted a risk assessment to support its request for the United States to lift its restrictions. Based on a US request, Costa Rica had established and operated a Clean Stock Program, aimed at reducing the number of interceptions of exports of ornamental plants to the United States. The Clean Stock Program for *Dracaena marginata* started to operate in 2005, and it involved authorities from Costa Rica and the United States. The

Program concluded its work in December 2008. However, more than one year after the conclusion of the Program, the United States had not yet initiated a process to modify its regulation restricting the importation of ornamental plants larger than 18 inches. A working plan had been elaborated by the regulatory agencies of both countries. Nevertheless, Costa Rica was concerned that despite the agreement on the technical issues of the Plan, the United States was taking too long to revise its restrictions.

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

CERTAIN MEMBERS

CONCERNS RELATED TO MEASURES MAINTAINED BY CERTAIN MEMBERS

Animal health

193. General import restrictions due to BSE

Raised by:	European Union
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. 46), March 2010 (G/SPS/R/56, paras. 35-36), June 2010 (G/SPS/R/59, para. 44)
Relevant document(s):	Raised orally
Solution:	Partial solution notified
Status:	Partially resolved
Date reported as resolved:	

231. In June 2004, the European Union raised concerns about unjustified import restrictions on EU exports due to concerns about BSE. To satisfy consumer demands, the European Union had adopted comprehensive measures to address risks relating to BSE. These measures applied both to products intended for consumption within the European Union, and to those destined for export. The system of geographical assessment used in the European Union had successfully identified countries in which the disease was still present. The European Union 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.

232. 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.

233. In October 2004, the European Union informed the Committee that several WTO Members had reviewed their bans on EU beef and small bovine ruminant products and replaced them with specific requirements in accordance with OIE standards. The European Union 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.

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

235. 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.

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

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

238. Uruguay supported the concerns of the European Union 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.

239. Switzerland supported the EU concern on restrictions due to BSE

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

241. In February 2009, the European Union 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 Union 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 Union 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 Union 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.

242. 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 gelatin. 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.

243. In June 2009, the European Union again drew attention to restrictions on bovine meat and related products still imposed by many Members. The European Union 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. EU measures to control BSE were exemplary and went far beyond OIE requirements, and the European Union urged Members to establish fair, non-discriminatory and transparent rules for the import of bovine products.

244. In October 2009, the European Union 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 some 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. EU measures to eradicate and control BSE were comprehensive and offered every guarantee that EU exports were safe. Finally, the European Union urged Members to fully take into consideration the latest OIE BSE guidelines and to establish fair, non-discriminatory and transparent rules.

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

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

247. In June 2010, the European Union reported that certain WTO Members still maintained unjustified import restrictions to protect against TSEs. The European Union urged Members to lift any unnecessary, disproportionate, or discriminatory restrictions which negatively affected EU exports. The European Union recalled that OIE had issued BSE standards based on scientific risk assessments and defined the conditions under which commodities could be safely traded. In May 2010, additional wording was inserted in Article 11.6 of the OIE Terrestrial Animal Health Code to clarify that, providing the commodities had been imported in accordance with those conditions, the status of the importing countries would not be affected. The European Union recalled that according to OIE recommendations, it is possible to import meat or even live animals from countries having a

"negligible", "controlled", or "undetermined" BSE risk status, as long as OIE rules on surveillance and control were followed. In addition, for certain products under specific conditions, such as de-boned skeletal muscle meat, milk and milk products, semen and embryos, there should be no BSE import requirements regardless of the BSE status or the age of the cattle population of the exporting country, zone or compartment. The European Union stated that some Members had recently announced new measures which, without any scientific justification, deviated from OIE standards. The European Union urged Members to align themselves with the OIE process and to process applications from the European Union.

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