WORLD TRADE ORGANIZATION

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(08-1341)

Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

Addendum

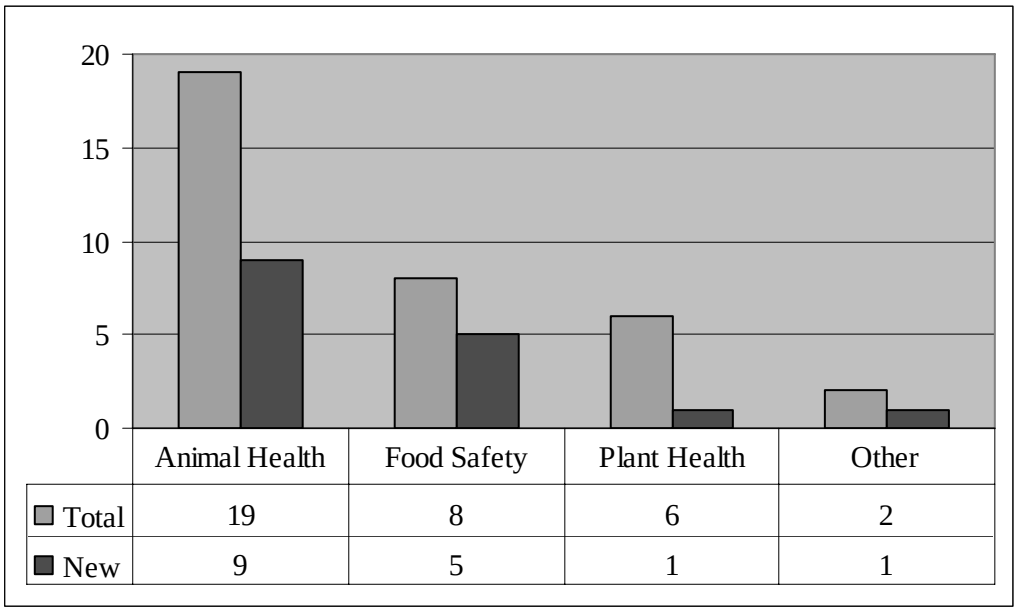
ISSUES CONSIDERED IN 2007

This part of document G/SPS/GEN/204/Rev.8 contains summary information regarding all issues which were raised in the SPS Committee for the first time during 2007, and issues which were previously raised but on which further discussions or activities occurred during 2007. This includes issues for which there was no substantive discussion in the Committee during 2007, 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 2007 (e.g., establishment of a dispute resolution panel on the issue).

A total of 35 specific trade concerns were brought to the attention of the Committee during 2007, of which 16 were new issues. Figure 1 shows all trade concerns raised or for which a resolution or other action was reported in 2007 by subject. Overall, eight issues (22.86 per cent) relate to food safety, and six issues (17.14 per cent) relate to plant health. Nineteen issues (54.29 per cent) relate to animal health and zoonoses; this category includes issues such as transmissible spongiform encephalopathy (TSEs) that are also relevant for food safety. Finally, two issues relate to other concerns, such as import licensing. Figure 2 indicates that TSEs account for 21 per cent of animal health concerns raised in 2007, while issues related to foot and mouth disease and avian influenza each account, respectively, for 27 and 26 per cent. The remaining 26 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 – 2007



	Animal Health	Food Safety	Plant Health	Other
Total	19	8	6	2
New	9	5	1	1

FIGURE 2: TRADE CONCERNS RELATED TO ANIMAL HEALTH & ZOONOSES – 2007

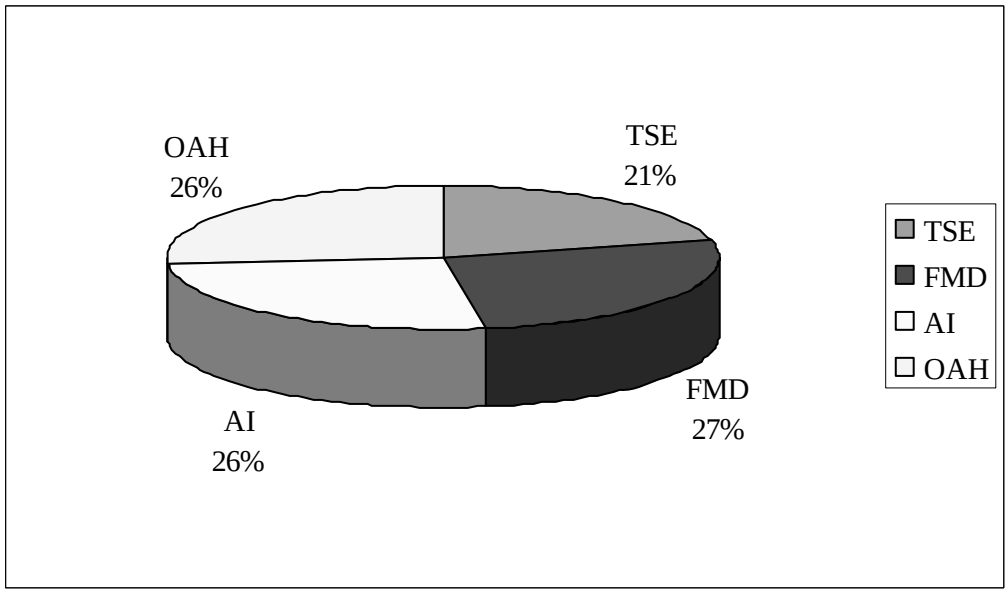
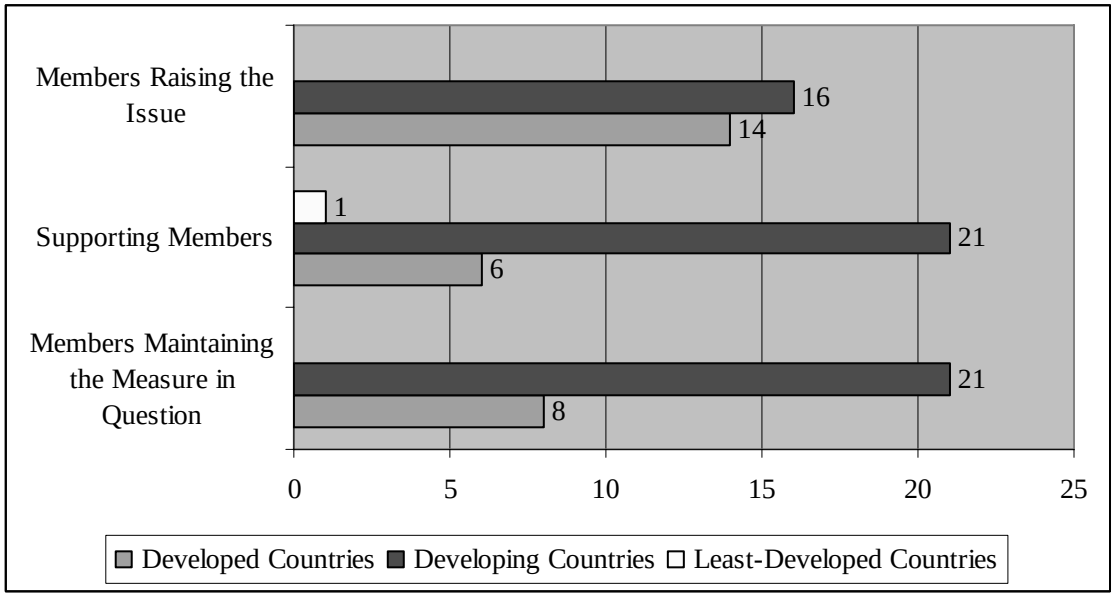


FIGURE 3: PARTICIPATION OF MEMBERS – 2007



Of the 35 trade concerns dealt with in 2007, in 14 cases a developed country has raised the issue, compared to 16 for developing country Members and zero for least-developed countries (on some occasions developing and developed country Members have raised or supported the same issue). Developed country Members have supported another Member raising the issue in six cases and developing country Members have supported another Member in 21 cases. One least-developed country Member has supported a trade concern. In 21 cases, the measure at issue was maintained by a developing country Member, and in eight cases it was maintained by a developed country Member. No trade concerns regarding measures maintained by least-developed country Members were raised. Figure 4 shows that six trade concerns were reported solved in 2007 and in three cases, the Committee was informed that a partial solution had been found. For the remaining 26 cases, no solution was reported.

FIGURE 4: SOLVED TRADE CONCERNS - 2007

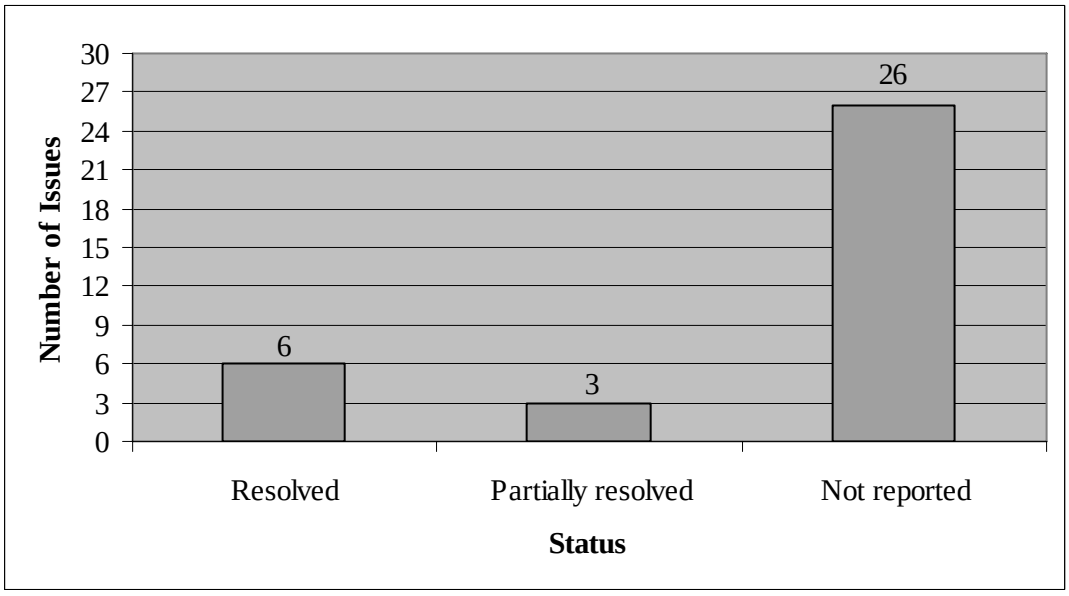


Table 1 – Issues Raised for the First Time in 2007

Item Number	Member(s) Maintaining the Measure	Title	Status[2]
246	China	Import restrictions on products of animal origin due to dioxin	R
247	Korea	BSE-related measures on beef products	NR
248	Korea	Regionalization for bovine and pig meat products	NR
249	Australia	Reform of Australia's IRA process	NR
251	China	Zero tolerance for pathogens on raw meat and poultry products	NR
252	El Salvador	Zero tolerance for salmonella in poultry and eggs	NR
253	India	Export certification requirements for dairy products	NR
254	El Salvador	Animal health requirements for poultry meat	NR
255	China	Application of regionalization and prohibition of bovine meat	NR
256	European Communities	Import restrictions on cooked poultry products from China	R
257	United States	Import restrictions on cooked poultry products from China	NR
259	China	Avian influenza restrictions	NR
260	Chile	Requirements for quarantine treatment of aircraft	NR
261	China	Varietal restrictions on US apples	NR
250	Certain Members	Trade restrictions related to national systems for determining maximum residue levels (MRLs) for pesticides	NR
258	Certain Members	Import restrictions on beef and beef products due to Blue Tongue disease	NR

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

Table 2 – Other Items Considered During 2007

Item Number	Member(s) Maintaining the Measure	Title	Status[3]
85	Australia	Import restrictions on prawns and prawn products; revised generic IRA for prawns and prawn products	NR
96	European Communities	Geographical BSE risk assessment	R
102	United States	Import restrictions on potted plants from the European Communities	NR
107	European Communities	Transitional TSE measures	R
118	Panama	Import licenses for agricultural products	R
185	India	Restrictions due to avian influenza	NR
205	Bolivia	Slaughter of imported breeding cattle	NR
210	Guatemala	Restrictions on imports of chicken meat	NR
217	Australia	Import restrictions on apples	NR
222	Japan	Import suspension of heat-processed straw and forage for feed	PR
226	Panama	Inspection regime for agricultural products	R
233	Israel	Phytosanitary import legislation	NR
238	European Communities	Application and modification of the EC Regulation on novel foods	NR
241	United States	Import restrictions on wooden Christmas trees	NR
242	European Communities	Restrictions on US poultry exports	NR
243	Indonesia	Lack of recognition of pest-free areas	PR
244	Indonesia	Importation of live animals and meat products	NR
245	Romania	Restrictions on US pork and poultry imports	NR
193	Certain Members	General import restrictions due to BSE	PR

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

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AUSTRALIA

CONCERNS RELATED TO MEASURES MAINTAINED BY AUSTRALIA

Animal Health and Zoonoses

85. Import restrictions on prawns and prawn products; revised generic IRA for prawns and prawn products

Raised by:	China, Thailand
Supported by:	Sri Lanka, Indonesia, Malaysia, Philippines, Viet Nam, European Communities
Dates raised:	March 2001 (G/SPS/R/21, paras. 84-85), October 2001 (G/SPS/R/25, paras. 109-111), March 2002 (G/SPS/R/26, para. 137), June 2002 (G/SPS/R/27, paras. 138-139), November 2002 (G/SPS/R/28, paras. 193-194), April 2003 (G/SPS/R/29, paras. 58-59), June 2003 (G/SPS/R/30, paras. 52-53), February 2007 (G/SPS/R/44, paras. 56-60), June 2007 (G/SPS/R/45, paras. 33-37), October 2007 (G/SPS/R/46, paras. 24-26)
Relevant document(s):	G/SPS/N/AUS/124, G/SPS/N/AUS/126, G/SPS/N/AUS/204 and Add.1, G/SPS/GEN/791
Solution:	
Status:	Not reported

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

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

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

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

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

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

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

8. In February 2007, Thailand again expressed serious concerns about the revised draft generic import analysis report on prawns and prawn products as notified by Australia. The proposed changes would have serious implications for the export of these products. Thailand had submitted its comments in response to the Australian notification and was in particular concerned that there was no scientific justification for the proposed quarantine measures. The analytical methods employed suffered from a lack of empirical data, and the conclusions were not based on scientific data but tailored to fit the views of policymakers. Thailand considered that these measures were unnecessary and would create trade obstacles for its exports.

9. Thailand recalled that a first draft IRA had been notified by Australia in November 2000 (G/SPS/N/AUS/124). Shortly after, however, Australia had imposed interim measures in response to an outbreak of exotic White Spot Syndrome Virus and Yellow Head Virus. The interim measures notified in February 2001 imposed restrictions on foreign exporters because of problem related to enforcement of Australia's domestic legislation. Thailand was concerned that the most recent draft report would result in another prolongation of unnecessarily stringent interim measures, without

sufficient scientific evidence. This more than 6-year delay in completing the IRA was an undue delay. If the measure were indeed a provisional measure, it should have been reviewed within a reasonable time, and the nature of the emergency requiring the imposition of urgent measures should have been described. Thailand requested that the interim measure be revoked, and that a new draft IRA be concluded within a reasonable period of time, fully taking into account Thailand's comments and suggested alternative measures to mitigate the risks.

10. China shared the concerns expressed by Thailand and considered that the proposed measures were more strict than necessary. For example, the measure permitted imports only from regions free from certain diseases, but those same prawn diseases existed also in Australia. Australia had imported prawns from Asia for ten years with no evidence that the disease had been spread through trade. This could not be justified as an emergency situation. Furthermore, there was no justification for requiring the removal of shells, as there was no scientific evidence that they carried diseases. This was an extra burden on exporters and not consistent with the practice of selling the product domestically with shells. The proposed measure would require the testing of all imports for three diseases, although they posed no risk to human health and there was little risk of the prawns being thrown into Australian waters. Finally, China considered the requirement that imported prawns must be heated to 85 degrees would reduce marketability and that alternatives should be provided. The proposed measures did not have a scientific justification and would cause unnecessary obstacles to trade.

11. Indonesia, Malaysia, the Philippines and Sri Lanka indicated that they shared the concerns of Thailand and China.

12. Australia responded that the revised draft IRA had been issued in November 2006, with a 90-day comment period (closing in February 2007) which had allowed all stakeholders an extended opportunity to provide their views. The IRA team was now considering the comments received. The draft IRA reflected a comprehensive review of the current science, and had concluded that there was a need to strengthen import measures through stricter controls, but a final decision about the necessary measures had not yet been made. Australia firmly rejected any suggestion that the revised draft IRA had relied on subjective assessments or that its findings had been pre-determined. After the IRA team had considered all stakeholders comments, the revised draft IRA would be considered by an eminent scientists group, and the IRA team would issue the final IRA report.

13. In June 2007, Thailand expressed serious concerns about Australia's revised IRA process, which was long and unpredictable. Almost a decade had passed since the first import risk analysis had been undertaken by Australia on prawns. The import risk analysis continued, with no conclusion in sight. In the meantime, Australia had indicated that it would apply stricter measures on imports. This raised concerns that the scientific information submitted to Australia was not being taken into account. Australia was requested to keep the Committee informed of its process, and the expected timeline, as well as to report on how the information submitted by Thailand and other trading partners was taken into account.

14. China recalled the concerns they had raised at the previous meeting and maintained that Australia's requirements were too stringent, unnecessary, and without scientific. basis. China had submitted comments, but received no response; it would appreciate information on how its comments had been taken into account by Australia.

15. Viet Nam stressed the importance of the prawn industry to his country and the serious consequences of the measures imposed by Australia. To date, there were no reports of any disease outbreaks related to Vietnamese prawn exports. His authorities had carefully studied Australia's draft risk analysis. Of the five diseases identified to be of concern in the IRA, three were not known to occur in Viet Nam. The other two diseases were widespread in South East Asia, yet had never been introduced into Australia despite years of prawn imports without the current quarantine restrictions.

The risk management measures proposed in the draft IRA lacked scientific justification and would present a serious barrier to trade. The details of the statement by Viet Nam are in document G/SPS/GEN/791.

16. The Philippines and Indonesia indicated that they shared the concerns of Thailand and China, and urged the Australian authorities to consider the comments submitted in a balanced and speedy manner, and provide responses to trading partners.

17. Australia drew attention to the public consultation period which had closed on 21 February 2007. Australia had reviewed the large number of submissions received. All submissions were available from Biosecurity Australia's website. Australia had provided the opportunity for all stakeholders to put forward new scientific information that may not have been considered before the implementation of the revised interim measures. Further consideration was required before the Director of Quarantine determined whether the interim measures needed to be strengthened to achieve Australia's appropriate level of protection (ALOP). The IRA would then be finalized using the established process, including review by the Eminent Scientists' Group, and a limited possibility for appeal of their decision. Further information on this matter would be available within the next few weeks.

18. In October 2007, Thailand informed the Committee of the current situation regarding Australia's interim measures on the importation of prawn and prawn products that came into force on 30 September 2007. Thailand and Australia had been undertaking technical discussions within the ASEAN SPS expert group and through bilateral trade negotiations. Some progress had been made on important issues but there were further issues remaining to be discussed. Thailand hoped to find a mutually acceptable solution on the prawn issue in the near future.

19. China noted that it shared the concerns expressed by Thailand regarding the restrictions on these products. China requested to be kept informed of the progress these two countries made bilaterally.

20. Australia responded that Australia's revised interim quarantine measures for prawns and prawn products had become effective on 1 October 2007 and it had been notified as an addendum to the notification on the release of the revised draft Import Risk Analysis (IRA) report in November 2006 (G/SPS/N/AUS/204/Add.1). In addition, Australia's trading partners as well as existing import permit holders were contacted in advance to inform them of the implementation of the measures. The revised interim measures followed a very detailed scientific risk analysis conducted by Biosecurity Australia and were deemed necessary to achieve an appropriate level of protection. More than 50 submissions were carefully considered and a number of technical issues had required discussion with some of the stakeholders. On 20 September 2007, Australia had accepted Thailand's proposal on alternative cooking parameters for prawns. Australia was willing to consider similar proposals from other exporting countries as well as to discuss equivalent measures such as zoning and compartmentalization.

Plant Health

217. Import restrictions on apples

Raised by:	New Zealand
Supported by:	Chile, United States, European Communities
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 13-15), October 2005 (G/SPS/R/39, paras. 64-68), February 2006 (G/SPS/R/39, paras. 64-68), March 2006

	(G/SPS/R/40, paras. 38-40), June 2006 (G/SPS/R/42, paras. 32-34), October 2006 (G/SPS/R/43, paras. 30-32), February 2007 (G/SPS/R/44, paras. 21-24), June 2007 (G/SPS/R/45, paras. 28-30)
Relevant document(s):	G/SPS/GEN/796, WT/DS367/1, WT/DS367/5
Solution:	Dispute settlement. Request for consultations September 2007. Panel established January 2008.
Status:	Not reported

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

22. Chile, the European Communities and the United States indicated that they had experienced similar difficulties. The European Communities hoped that since Australia was reviewing the scientific justification of its 2004 risk assessment in light of the Panel findings in the *Japan-Apples* case, its phytosanitary import policy might improve. The United States recalled that the major plant pest of concern was fire blight. A WTO dispute settlement Panel had recently found that stringent control requirements were not justified on the basis of the available scientific evidence, which clearly demonstrated that mature symptomless apple fruit did not pose a risk of transmitting fire blight. It encouraged Australia to expeditiously modify its existing import prohibitions on apples and other fruits due to fire blight concerns. Chile requested to be kept informed of any progress on this issue.

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

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

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

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

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

28. In June 2006, New Zealand reported that it had commented on a draft risk assessment. Contrary to evidence considered in the *Japan-Apples* case, Australia maintained that mature apples were a vector for fire blight. New Zealand was of the view that volume estimates in the risk assessment should contain only New Zealand exports. Biosecurity Australia had indicated that the process might conclude at the end of 2006. If this problem - which had existed for four years - could not be resolved bilaterally, New Zealand would not rule out other WTO actions.

29. The United States reiterated its request that Australia revise its approach in light of the scientific evidence and of WTO jurisprudence.

30. Australia indicated that 40 submissions commenting on the draft import risk assessment had been received, and that some technical exchanges were continuing. The draft import risk assessment took into account Australia's appropriate level of protection; fire blight was only one of the pests of concern. The final report would be reviewed by an eminent scientist group to ensure that stakeholder comments had been properly taken into account.

31. In October 2006, New Zealand recalled that in December 2005, Australia had released a third revised draft Import Risk Analysis (IRA) for New Zealand apples, and New Zealand, in consultation with their pip fruit industry, had provided a comprehensive submission to Biosecurity Australia on this revised draft. New Zealand noted that since June 2006, Biosecurity Australia had completed its consideration of stakeholder comments on the revised draft and a final draft report had been referred to Australia's Eminent Scientific Group (ESG), which had also finished its consideration of the draft final report and made recommendations to Biosecurity Australia. New Zealand had not received these recommendations and urged Australia to make them available in the interest of transparency. While New Zealand was reassured by the progress made in finalizing the issue with Australia, it still had concerns regarding the content and substance of the draft IRA. Australia still maintained that mature apples were a vector for fire blight disease, irrespective of the science considered in the Japan apples dispute which had demonstrated that the risk was negligible. New Zealand was also concerned about the pests and diseases addressed by Australia in the revised import risk analysis and hoped that the volume of imports assessed in the final IRA would take into account only trade from New Zealand. New Zealand indicated its commitment to resolving the issue bilaterally with Australia, but was prepared to explore other dispute settlement options under the WTO system if the issue was not resolved in the near future.

32. The United States shared the concerns of New Zealand and indicated that the United States had also provided a comprehensive submission to Biosecurity Australia on its revised draft IRA. The United States expected that Australia's final policy determination would be consistent with the wealth of scientific evidence available on the issue and the legal record established by the WTO dispute settlement process.

33. Australia reported that in accordance with its normal procedure, the draft final IRA was sent to the independent Eminent Scientific Group (ESG) on 1 August 2006 for review. That group had 60 days to conduct its review and as indicated by New Zealand, the ESG had completed the review and the report had been transmitted to Australia's Director of Animal and Plant Quarantine. Biosecurity Australia was expected to take into account any recommendations made by the ESG in producing its final IRA report and the report would be published. Australia further noted that the final IRA could be appealed on the basis of any problems with the process but not in terms of the actual science in the report. Once any appeal process had been completed, a final report and recommendations would be provided to the Director of Animal and Plant Quarantine for a final quarantine policy determination. The whole process was expected to be completed by the end of 2006 and Australia indicated that the recommendations made by the ESG would be conveyed in an appropriate fashion as determined by the Director of Animal and Plant Quarantine.

34. In February 2007, New Zealand recalled that this issue concerned restrictions that had been in place for over eight decades. New Zealand's experience had been one of frustration; since initiating a fourth request for access in 1999, they had waited for over eight years for Australia to complete its import risk analysis (IRA) process. While there had been some progress, the IRA had still not been completed before the end of 2006, as previously expected. Now the IRA process was nearing completion, and a final IRA had been issued. However, the conditions outlined in the final IRA were extensive, and it was doubtful that commercially meaningful trade would be possible under these conditions. The IRA proposed tougher requirements relating to fire blight, in contradiction to the conclusions of the *Japan-Apples* case, and clearly in contradiction to Australia's WTO obligations. There was no scientific or legal justification for the imposition of these measures relating to fire blight. Other proposed measures relating to other pests were also of concern, such as the requirement that Australian inspectors be present in orchards. New Zealand had demonstrated its willingness to work with Australia on this matter, and remained committed to resolving this issue. However, if no progress was made in the near future, New Zealand could not rule out dispute settlement options.

35. The United States recalled that her country shared the concerns of New Zealand, and that Chile and the European Communities had also raised similar difficulties with Australia. The major concern was fire blight, and the past dispute case found that stringent requirements, such as orchard inspections, were not justified. Mature apples do not pose a risk of spreading fire blight. Given the strength of the scientific and legal records, she urged Australia to remove its unjustified import restrictions without delay.

36. The European Communities observed that undue delays appeared to be a regular, most troublesome, feature of the Australian IRA process. The European Communities would address this concern in its comments on Australia's new IRA process.

37. Australia reported that there had been a number of actions taken since the last meeting, and the issue was close to finalization. At the end of November 2006, Biosecurity Australia had released the final IRA report on apples from New Zealand. Appeals from the final IRA report had been possible until 12 January 2007, on limited grounds. There had been three appeals, but all had been dismissed. The next step was for the Director of Quarantine to make a policy determination which would include any import requirements.

38. In June 2007, New Zealand stated that since Australia had concluded its import risk analysis process by issuing a Final Policy Determination on 27 March 2007, New Zealand had been closely engaged with Australian authorities in negotiating standard operating procedures to implement in practice the requirements prescribed by Australia. New Zealand considered that these requirements and measures were scientifically unjustified and inconsistent with the SPS Agreement, however New Zealand had been negotiating a work plan and standard operating procedures in good faith in order to determine precisely what the conditions would be for access of New Zealand apples into Australia. Whether or not these conditions would permit any commercially meaningful trade to occur remained to be seen, but the restrictions and costs imposed on the NZ industry were unjustified, and New Zealand would keep open its options for further action.

39. The United States noted that her country was disappointed by the March 2007 decision of Australia, which imposed more onerous restrictions on apples than could be scientifically justified. The United States found it particularly distressing that Australia failed to take account of the available scientific evidence and of the previous legal proceedings, and had decided to impose onerous requirements on apples from New Zealand. This decision undermined confidence in Australia's commitment to ensure that SPS measures were not maintained without sufficient scientific evidence.

40. Australia reported that considerable progress had been made, as the determination of March 2007 would permit the importation of apples under certain conditions. Australia was working to permit trade to commence in 2008. The relationship between Australia and New Zealand on SPS matters was much broader than just the apple issue, and Australia was committed to continue working with New Zealand on a wide range of concerns.

Other concerns

249. Reform of Australia's IRA process

Raised by:	European Communities
Supported by:	Philippines
Dates raised:	February 2007 (G/SPS/R/44, paras. 53-55)
Relevant document(s):	G/SPS/N/AUS/203
Solution:	
Status:	Not reported

41. In February 2007, the European Communities welcomed Australia's proposed reform of its import risk analysis (IRA) process, and in particular the establishment of maximum timeframes for completion of IRAs. However, it was unclear what circumstances, if any, could permit the extension or suspension of the timeframes. How could trading partners be assured that the clock would not be stopped for unjustifiable reasons? The European Communities welcomed the establishment of the eminent scientists group, and expressed the hope that this would ensure that all scientific opinions were fully taken into account.

42. The Philippines shared the concerns of the European Communities, as the new process provided flexibility and allowed for the suspension of the timeframes. They sought clarifications on what regulations under the Quarantine Act might be modified, and the effect of the new process on pending requests for IRAs. In particular, the Philippines questioned whether pending IRAs would be subject to review by the eminent scientists group, and what would be the composition of this group.

43. Australia clarified that pending IRAs that were well-advanced would be finalized under the current rules. Australia would announce the transitional arrangements, other existing market access requests, and their prioritization. Australia would also clearly define the criteria for suspending the prescribed timeframes ("stopping the clock") - this would not be for unjustifiable reasons. However, the possibility of stopping the clock was necessary in light of experience and reflected the practical circumstances in completing risk assessments – for example, the need to wait for information to be provided by an applicant country. The details of the procedures would be publicized, and Australia would inform the Committee once the new procedures were in place.

BOLIVIA

CONCERNS RELATED TO MEASURES MAINTAINED BY BOLIVIA

Animal Health and Zoonoses

205. Slaughter of imported breeding cattle

Raised by:	Mexico
Supported by:	
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 45-47), June 2006 (G/SPS/R/42, paras. 19-20), February 2007 (G/SPS/R/44, paras. 144-145)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

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

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

46. In June 2006, Mexico recalled that a Mexican association, FOGAMEX, had been invited to show some cattle at a fair in Santa Cruz, Bolivia. Although the requirements communicated by Bolivia's animal health authority (SENASAG) had been fulfilled and an import permit had been obtained, when the cattle arrived in Bolivia, SENASAG had seized the animals and ordered that they be returned to Mexico. However, since foot and mouth disease exists in Bolivia while it does not exist in Mexico, it was not possible to return the animals to Mexico. After weeks of negotiations, and after the Bolivian authorities had revoked the import permit although the cattle had already arrived, Bolivia decided to slaughter the cattle. Months later, in the context of a lawsuit filed by FOGAMEX against SENASAG, the Bolivian Supreme Court in Santa Cruz found that SENASAG had withheld the import permits without legal basis and ordered SENASAG to cover the damages. Formal consultations held in La Paz, Bolivia, in 2005 had not led to an agreement. Since then, bilateral efforts had continued to

try to obtain an official and public apology from the Bolivian Government and payment for damages caused.

47. Bolivia indicated that in the absence of OIE guidance, the competent Bolivian authorities had followed national and Andean Community sanitary requirements, which required a risk assessment before an import permit was issued. The animal health authorities received insufficient documentation to carry out a risk assessment only two days before the cattle arrived. According to the Andean regulations, the cattle thus had to be slaughtered or re-exported. After granting a reasonable period to allow the interested parties to organize the re-exportation of the cattle, which had not been possible, the Bolivian authorities had slaughtered the cattle to ensure adequate health protection in Bolivia and in the region. Bilateral efforts were underway to find a mutually satisfactory solution to Mexico's concern about the economic damage suffered by the Mexican exporter.

48. In February 2007, Mexico recalled that although Bolivia had issued permits for the entry of the Mexican breeding cattle for participation in a trade fair, upon their arrival Bolivia had refused entry and ordered that the cattle to be sent back to Mexico. This was not possible because FMD existed in Bolivia but not in Mexico. Bolivia had falsely claimed that Mexico was a high risk source of BSE, and had slaughtered the cattle. Although the Supreme Court of Santa Cruz in Bolivia had ordered payment of reparations to Mexico, this had not yet occurred.

49. Bolivia indicated that when the 25 head of cattle had arrived in Bolivia, his authorities realized that the procedures for this type of importation had not been properly applied (G/SPS/GEN/768). Before such importation could be permitted, Bolivia needed to complete a risk assessment for BSE, but this was not possible as not enough information had been provided by Mexico, nor was there sufficient time to complete the analysis. Bolivia had proposed returning the cattle to Mexico, as they had in fact arrived in an FMD-free area, but when Mexico refused to accept them, the cattle were slaughtered. Recognition of Mexico as BSE-free needed to be referred to the OIE. Bolivia noted that the company involved had not followed up on the judgement of the court.

CHILE

CONCERNS RELATED TO MEASURES MAINTAINED BY CHILE

Animal Health and Zoonoses

260. Requirements for quarantine treatment of aircraft

Raised by:	Argentina
Supported by:	
Dates raised:	October 2007 (G/SPS/R/46, paras. 16-17)
Relevant document(s):	G/SPS/N/CHL/253
Solution:	
Status:	Not reported

50. In October 2007, Argentina indicated that in April 2007, Chile notified the quarantine treatment of aircraft landing in Chile from areas with high levels of pests (G/SPS/N/CHL/253). Fumigation with pesticides and insecticides was required every time the aircraft required cleaning. This treatment could prevent the export of live bees from Argentina via any aircraft which landed in Chile. Argentina had conveyed their concerns to the Chilean focal point to ensure that these measures

not unduly affect Argentine exports, and more specifically, that live bees not be killed by the fumigation.

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

CHINA

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINA

Food safety

246. Import restrictions on products of animal origin due to dioxin

Raised by:	European Communities
Supported by:	
Dates raised:	February 2007 (G/SPS/R/44, paras. 13-14), October 2007 (G/SPS/R/46, para. 36)
Relevant document(s):	Raised orally
Solution:	Consultations between the EC authorities and China's AQSIQ, at both the bilateral and multilateral level, had been successful in finally putting an end to these restrictions.
Status:	Resolved

52. In February 2007, the European Communities raised concerns regarding China's import restrictions on products of animal origin from some EC member States due to alleged dioxin contamination. There had been an isolated incident in January 2006, at which time all potentially contaminated products had quickly been recalled. Trade had been re-established and EC exports had returned to normal within weeks, except with China. China was the only WTO Member that continued to impose restrictions because of a problem which no longer existed. The European Communities had pursued bilateral contacts with China's General Administration of Quality, Supervision, Inspection and Quarantine (AQSIQ) and provided all of the information requested by China. The ban on products from some EC member States was disproportionate to the potential risk, as the contamination problem no longer existed. The representative of the European Communities requested China to remove its restrictions or to provide a scientific justification for their maintenance.

53. China confirmed that this issue had been the focus of technical consultations with the European Communities. In Belgium, Germany and the Netherlands, this was the second time there had been this type of problem. Given the fluidity of movement of goods within the European Communities, the spread of contaminated products was very likely. China was waiting to receive the final EC investigation report on the incident so that it could complete its risk assessment and take the appropriate measure.

54. In October 2007, the European Communities reported on the resolution of the specific trade concern related to China's import restrictions on some products of animal origin from some EC member States due to alleged dioxin contamination. Import restrictions were originally introduced because of an isolated incident which affected a limited number of agriculture products and for which prompt corrective action was taken. Consultations between the EC authorities and China's AQSIQ, at both the bilateral and multilateral level, had been successful in finally putting an end to these restrictions.

251. Zero tolerance for pathogens on raw meat and poultry products

Raised by:	United States
Supported by:	
Dates raised:	June 2007 (G/SPS/R/45, paras. 15-16)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

55. In June 2007, the United States indicated that China maintained an unrealistic zero tolerance level for pathogens in raw meat and poultry products. This requirement far exceeded the international standards; was more trade restrictive than necessary; and lacked scientific justification. The United States was also concerned that while several US poultry plants had been de-listed because of this requirement, a similar zero tolerance was apparently not applied to Chinese-produced products.

56. China observed that this issue had been previously discussed bilaterally and would again be addressed at a meeting scheduled for September. The requirement that food be free from microbiological contamination applied both to imported and domestic products. Health problems relating to microbiological contamination had occurred in the United States, such as the situation involving spinach, and many Members had similar requirements to protect the health and safety of consumers.

Animal Health and Zoonoses

255. Application of regionalization and prohibition of bovine meat

Raised by:	Brazil
Supported by:	
Dates raised:	June 2007 (G/SPS/R/45, paras. 26-27), October 2007 (G/SPS/R/46, para. 203)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

57. In June 2007, Brazil indicated that China continued to prohibit meat products that had been treated to prevent the potential spread of FMD and furthermore failed to apply the concept of regionalization in accordance with Article 6 of the SPS Agreement. China had not notified these

measures; Brazilian exporters learned of them only when shipments were blocked. Numerous efforts to resolve these problems bilaterally had not succeeded, and China had not responded to Brazil's requests for justification. Brazil requested that China adjust it requirements to take into account the OIE-recognized FMD-free zones, and to remove restrictions on products whose processing inactivated the FMD virus, such as gelatine and dairy products.

58. China recalled that there had been an FMD outbreak in Brazil in 2005, which led China to impose emergency measures. However, progress had been made through bilateral consultations. China had provided a questionnaire to Brazil with respect to the recognition of FMD-free zones in June 2006, and had received a reply only in March 2007. This response was now being considered by experts in risk assessment to determine whether a visit was needed to verify information. With regard to the ban on Brazilian beef, China had provided Brazil with draft protocol last year, and received some feedback in February 2007. However, this response was not complete, and China was waiting for further reply. China remained willing to further discuss this matter with Brazil at the technical expert level, as good and efficient cooperation was required to resolve the issue quickly.

59. In October 2007, Brazil informed Members that since the last session of the Committee, Brazil and China had held a bilateral meeting and they were hopeful to resolve this issue through more bilateral dialogue in the near future.

259. Avian influenza restrictions

Raised by:	United States
Supported by:	
Dates raised:	October 2007 (G/SPS/R/46, paras. 14-15)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

60. In October 2007, the United States observed that China prohibited imports of poultry and poultry products from seven US states (Rhode Island, Connecticut, New York, Pennsylvania, West Virginia, Nebraska and Virginia) which had experienced cases of low-pathogenic avian influenza (AI). For some of these states, the cases had been completely eradicated for more than two or three years. The prohibition extended even to heat-treated products, a process that inactivated the AI virus. There was no scientific justification for the restrictions China had imposed, which were inconsistent with the provision of the OIE's AI guidelines. The United States had provided China with extensive information of the AI status of these states, and urged China to lift its import restrictions immediately, and to align its measures with the provisions of the OIE guidelines.

61. China responded that the ban on poultry products from these states was based on risk analysis and on the principle of regionalization of the OIE. Since the beginning of the year, AI had appeared in three other states and China was concerned with the spreading tendency of low-pathogenic strains of AI in the United States. Regarding the four states where AI had already been eliminated, China was conducting a risk analysis based on the information provided by the United States. China had notified the United States on 15 August that according to the relevant Chinese regulations, poultry products coming either directly or indirectly from areas with AI were not allowed to enter China. Regarding heat-treated products, China invited the United States to provide relevant technical information, including processing techniques and flow charts of cooked poultry meat, so that China could undertake a risk analysis.

Plant Health

261. Varietal restrictions on US apples

Raised by:	United States
Supported by:	
Dates raised:	October 2007 (G/SPS/R/46, paras. 18-19)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

62. In October 2007, the United States stated that China currently limited imports of US apples to just two varieties: Golden Delicious and Red Delicious. Seven years ago, the United States had requested that China allow access for all varieties of apples. Extensive scientific information had been provided to Chinese officials in support of this request. China recently requested information related to fire blight and indicated that its import restrictions on additional varieties of US apples were primarily related to concerns over fire blight. The issue of varietal restrictions on imported fruit and fire blight restrictions on mature, symptomless apples had been addressed by WTO dispute settlement panels. The United States urged China to review the findings of these panels and to adjust its restrictions on US apples appropriately.

63. China noted that in 1995, the two fire blight resistant varieties mentioned by the United States were allowed to be imported into China. In 2006, a request was made to China for other varieties. These new varieties were not fire blight resistant, so China had to deal with this request on the basis of risk analysis. China had taken note of the WTO dispute settlement case relating to fire blight; however, it still believed mature apples had the potential to serve as a pathway for the disease. An experiment recently carried out by Japan had also shown that mature apples could serve as a pathway for the disease. China asked the United States to provide additional technical material relevant to fire blight and other apple pests as soon as possible in order to complete the market access process. China would handle this matter on a scientific basis and had recently organized a group of experts to speed up the application review process. At present no varieties of Chinese apples were allowed into the United States because the risk analysis had not yet been completed by the United States. Therefore, China also urged the United States to complete the risk analysis that had been ongoing for some time.

EL SALVADOR

CONCERNS RELATED TO MEASURES MAINTAINED BY EL SALVADOR

Food safety

252. Zero tolerance for salmonella in poultry and eggs

Raised by:	United States
Supported by:	
Dates raised:	June 2007 (G/SPS/R/45, paras. 17-18), October 2007 (G/SPS/R/46, paras. 33-34)

Relevant document(s):	G/SPS/N/SLV/21
Solution:	
Status:	Not reported

64. In June 2007, the United States raised concerns about El Salvador's zero tolerance for Salmonella in poultry and eggs, and the required certificate attestations. This requirement did not have a scientific justification, and also raised some concerns regarding national treatment. El Salvador had not as yet provided information requested by the United States regarding the prevalence of Salmonella in poultry and eggs in El Salvador, nor on domestic testing for Salmonella. Despite bilateral discussions of the problem, no resolution had been reached.

65. El Salvador stressed its willingness to continue to seek a resolution of this problem bilaterally. The United States was encouraged to submit their request and questions in writing, for consideration by the authorities.

66. In October 2007, the United States reported that El Salvador had agreed to visit the United States for discussions and site visits related to this measure. The United States looked forward to providing the Committee with a report from El Salvador's visit at a future meeting.

67. El Salvador clarified that the measure referred to a standard that El Salvador notified in 1999 as G/SPS/N/SLV/21. In the past year, El Salvador had held bilateral meetings with US technical experts and made progress in the sense that restrictions on certain products such as day-old chicks and fertile eggs had been lifted. El Salvador had extended the certification for those products that were free of Salmonella. There were no prohibitions on pre-cooked products because the heat de-activated the virus. El Salvador was willing to continue to meet with the technical exports in order to come up with solutions which would allow the two countries to have free-flowing trade.

Animal Health and Zoonoses

254. Animal health requirements for poultry meat

Raised by:	United States
Supported by:	
Dates raised:	June 2007 (G/SPS/R/45, paras. 24-25)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

68. In June 2007, the United States expressed concern that El Salvador required that imported uncooked poultry meat be sourced from farms free of a number of diseases. This requirement exceeded the OIE standards, as many of the diseases identified were cosmopolitan in nature and not known to be transmissible via poultry meat. El Salvador's measure was therefore without scientific justification.

69. El Salvador observed that there had been bilateral meetings with US officials, at which some protocols had been agreed for certain products. The United States was invited to provide its requests and comments in writing.

EUROPEAN COMMUNITIES

CONCERNS RELATED TO MEASURES MAINTAINED BY EUROPEAN COMMUNITIES

Food safety

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

Raised by:	Colombia, Ecuador, Peru
Supported by:	Argentina, Bolivia, Brazil, Chile, Costa Rica, Benin, El Salvador, Honduras, India, Mexico, Paraguay, Philippines, Uruguay, Bolivarian Republic of Venezuela
Dates raised:	March 2006 (G/SPS/R/40, paras. 21-29), June 2006 (G/SPS/R/42, paras. 35-37), October 2006 (G/SPS/R/43, paras.131-134), February 2007 (G/SPS/R/44, para. 64)
Relevant document(s):	G/SPS/GEN/681, G/SPS/GEN/699, G/SPS/GEN/700, G/SPS/GEN/713, G/SPS/GEN/714, G/SPS/GEN/733, G/SPS/GEN/735
Solution:	
Status:	Not reported

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

71. Colombia was aware of the importance of protecting consumer health. However, the amount of information on the safety of these traditional food products required by the EC regulation and the costs to undertake scientific studies were not proportional to health risks and were excessive especially for small scale farmers and exporters. The proposed amendment of Regulation 258 would result in a non-tariff barrier to trade with negative effects on the introduction of traditional foods into European markets, contrary to Articles 2.2 and 5.6 of the SPS Agreement.

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

(i) the non-application of Regulation 258 to exotic, traditional products with a history of safe consumption in their region of origin;

(ii) greater transparency and clarity in the procedures and definition, giving credit to a safe consumption history of food in the country of origin;

(iii) requirements, tests, and procedures in proportion with the nature of the foods concerned and the risks they could imply for consumers; and

(iv) all exotic traditional products to remain in the public domain and no private entity to be granted privileged access to the European market.

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

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

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

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

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

Communities explain how special needs of developing countries had been taking into account in accordance with Article 10 of the SPS Agreement (G/SPS/GEN/713).

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

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

80. In October 2006, Peru, Ecuador and Columbia reiterated concerns related to the European Communities Regulation 258/97 on Novel Foods. They maintained that the regulation constituted a non-technical barrier to trade in these products as it was not flexible, made no distinction between strictly novel foods of known risk and no known risk and genetically modified organisms (GMOs), and was scientifically unjustified. They noted that exotic products originating from Latin America were not the result of any type of genetic modification but rather formed part of the biodiversity of the region and were consumed traditionally. Furthermore, there had been inconsistencies in the procedures for the application of this regulation throughout the European Communities. The European Communities had not considered the fact that many of the traditional products had been marketed in a number of countries with very strict sanitary standards and there were methodological guidelines in order to obtain an authorization.

81. The European Communities was requested to promptly review Regulation 258/97, excluding from its scope of application exotic traditional products resulting from biodiversity, and to take into account scientific assessments and relevant evidence from other countries and competent international organizations when risk assessments were made. The European Communities could adopt an exclusive regulation that separated GMOs from unwanted association with exotic products, and that established different procedures for novel foods of known risk and no known risk in the European Communities. The European Communities was also requested take into account the history of the product in the world, the consumption patterns and traditional knowledge in its use and preparation. This would provide for greater flexibility in the application of the regulation and thus facilitate the entry of exotic traditional products into the European market.

82. Bolivia, Brazil and the Philippines shared the concerns of Peru, Ecuador and Columbia. The Philippines highlighted the fact that the regulation could become an unjustified non-tariff barrier to the EC market in view of the unclear technical distinction between these products and other products.

83. The European Communities reported that there had been various exchanges of formal communications between the Members concerned. The European Communities acknowledged the problem with products (products of biodiversity or traditional products), which were not in the EC market prior to 1997 and noted that the regulation was not discriminatory as EC producers had to undergo similar risk evaluations. These products, whatever their potential, were incremental to the enormous volume of imports of foods and vegetables currently in the EC market. The European Communities reiterated its request that the Members concerned should submit data on the volume of such trade and risk assessments carried out in other developed countries. The European Communities indicated that it was putting forward a new proposal that addressed the genuine concerns of Members. However, there was a need for a more proportionate regime to improve the imports of these products. A public consultation had been held on the matter and the European Communities appreciated the contributions from the concerned countries.

84. In February 2007, Peru noted that it would welcome an update from the European Communities on current developments. The European Communities indicated that the Novel Foods Regulation was being revised. It had initially been designed to cover a full range of novel foods, from GMO foods to products of biological diversity. Following public consultations and the consideration of the views and comments received, revised legislation was being prepared. The anticipated result would be a two-tiered process, with products that had a long history of safe use subjected to less rigorous procedures than other novel foods. The European Communities was looking to address the concerns identified by trading partners, while ensuring consumer safety.

242. Restrictions on US poultry exports

Raised by:	United States
Supported by:	
Dates raised:	October 2006 (G/SPS/R/43, paras. 28-29), February 2007 (G/SPS/R/44, paras. 32-33)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

85. In October 2006, the United States raised concerns regarding the delay by the European Communities to finalize and implement a draft regulation that approved antimicrobial treatments (AMTs) on poultry subject to certain restrictions. The United States recalled that in August 1997, the European Communities stopped imports of US poultry meat on the basis of the use of AMTs in its production. However, in January 2006 the European Food Safety Authority (EFSA) had concluded that the antimicrobial washes at issue were safe, confirming an April 2003 opinion by the EC scientific committee on veterinary measures related to public health. Despite the decision by the European Communities to propose new legislation that provided the framework to approve these products for use on poultry, the European Communities had yet to approve importation of poultry treated with these products. The United States urged the European Communities to authorize these products so that US poultry exports which met rigorous US safety standards could also meet EC standards.

86. The European Communities appreciated the US concerns regarding the delay but noted that it was important that the genuine and long-standing concerns in the European Communities over the use of AMTs were taken fully into account in the approval process. The circumstances that led to the effective ban on poultry meat from the United States in 1997 did not relate exclusively to AMTs. The use of AMTs in food of animal origin was not permitted at present in the European Communities, *inter alia*, because of concerns that the use of such treatments could disguise other hygiene problems. The European Communities expressed disappointment that while it was possible for US exports to meet EC hygiene requirements without the use of AMTs, the United States was still insisting on the use of these products. The European Communities was in the process of finding a solution and this included a recent decision in principle that AMTs could be used to tackle surface contamination. A draft regulation had been prepared which allowed for the use of such substances under specific conditions. The European Communities was still identifying the specific conditions to accompany the draft regulation, in order to ensure that AMTs were not used to hide other problems. However, the European Communities expressed hope that bilateral information exchanges with the United States could lead to a mutually agreeable solution.

87. In February 2007, the United States reported that despite a positive risk assessment by the European Food Safety Agency (EFSA), the European Commission had not yet authorized the imports from the United States.

88. The European Communities responded that the EC market was open to imports of poultry meat, and substantial quantities were imported from Brazil and Thailand. The European Communities was also open for US exports, but had difficulties with the US insistence on the use of anti-microbial treatments (AMTs). The US poultry industry worked to high standards, but refused to export poultry that had not been treated with AMTs. One solution would be for the United States to change its system and export without AMTs, which it refused to do. The other solution was for the European Communities to adapt its system, which was very sensitive because these products were banned for use in Europe. The use of AMTs was very controversial with EC member States and consumers, who considered these products unnecessary if appropriate hygiene was used from farm to table. The European Communities had taken constructive steps and adopted framework legislation to allow for possible authorization of AMTs. EFSA had evaluated their safety, and discussions were underway with member States to develop implementing legislation to allow their use.

Animal Health and Zoonoses

96. Geographical BSE risk assessment

Raised by:	Canada, Chile, India
Supported by:	United States
Dates raised:	July 2001 (G/SPS/R/22, paras. 22-26), June 2005 (G/SPS/R/37/Rev.1, paras. 35-36), June 2007 (G/SPS/R/45, paras. 44-45)
Relevant document(s):	Raised orally
Solution:	
Status:	Resolved

89. In 2001, Canada requested information on the EC geographical BSE risk assessment (GBR) process, the consistency of its application and how assessments could be reviewed when risks changed. Canada noted that the OIE was developing a system to verify countries' own assessments of their BSE status, and wondered how it would relate to the EC system. The United States was

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

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

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

92. The European Communities described its BSE import regime in relation to beef and beef products as proportionate, non-discriminatory and science-based. The recent findings of BSE in both the United States and Canada had not led to measures from the European Communities. The EC classification system had been introduced due to insufficient progress in the OIE with the development of an international framework on trade in beef and beef products and BSE. In that context, the European Communities encouraged all OIE members, including India, to work towards OIE country classifications which would allow the European Communities to abandon its classification. The European Communities clarified that, unless the OIE failed to classify countries, India's existing classification would not be revisited since it had been carried out on an independent basis by EC scientists.

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

94. The European Communities noted that while EFSA had classified Chile as a Category 3 risk, the European Communities remained open to reassessing the status in the light of the OIE revised code on BSE. If the OIE were to classify Chile as provisionally free, the European Communities would

take this into consideration. However only Argentina, Iceland, Singapore and Uruguay were in this particular category. Even if a country was categorized as a Category 3 risk of BSE, trade could still take place if appropriate measures were in place.

95. In June 2007, Canada indicated that his authorities considered both specific trade concerns numbers 96 and 107, to be resolved as they had been overtaken by the OIE's new risk assessment framework and categorization system for BSE risk posed by countries. The EC geographical BSE risk assessment had led to concerns regarding the consistency of the risk analysis and the possibility of reviewing risk assessments over time. The EC transitional TSE measures resulted in the classification of countries according to four levels of risk, but only recognized two levels of risk management. The OIE had made amendments to the Animal Health Code, which updated the risk assessment framework and BSE categorization. As previously reported, Canada was recognized as a controlled risk country for BSE. The European Communities had decided to use the new OIE standards.

96. The European Communities noted that the EC measures on BSE had always been intended to be interim measures. The European Communities had clearly indicated that the measures would be adapted in light of OIE standards, but that interim measures were required to protect health while the OIE completed its work. The interim measures had been proportionate, fair and science-based, especially when compared to the measures imposed by other Members. When cases of BSE had occurred in Canada and the United States, the EC measures had not been changed in any way, whereas many other Members had imposed unjustified measures. Now the OIE had completed an excellent job in preparing appropriate standards, and the European Communities had adapted its measures immediately to ensure full conformity with the new OIE standards. This modification had already been notified to the SPS Committee, and the European Communities was the first Member to fully adopt the new OIE Code. Members had voiced their confidence in the international standards earlier, and the European Communities invited all Members to quickly adopt the OIE standards on BSE.

107. Transitional TSE measures

Raised by:	Canada
Supported by:	United States
Dates raised:	October 2001 (G/SPS/R/25, paras. 5-8), June 2007 (G/SPS/R/45, paras. 44-45)
Relevant document(s):	Raised orally
Solution:	
Status:	Resolved

97. Canada expressed concern about loss of access to the EC markets for pet food, live bovine animals, embryos, ova and tallow in the wake of the adoption of transitional TSE measures by the European Communities. Canada stated that the EC regulations classified countries according to four levels of risk, but applied only two levels of risk management. According to the OIE criteria, Canada was BSE-free, yet Canadian exports faced identical trade restrictions to EC member States in which BSE was prevalent. These problems would be compounded by EC animal waste regulations due in 2002 which threatened to prohibit the few remaining animal products that Canada could still export to the European Communities. Canada requested to be removed from the scope of application of these measures. The United States agreed that the European Communities was applying stringent measures to countries that were either not affected by BSE, or which had significantly different risk factors. This approach lacked scientific justification and ran counter to international standards. The European Communities explained that the transitional measures laid down import conditions for products of

bovine, ovine and caprine origin, and would be extended to cover certification of other products of animal origin. Pet food was included to protect consumers' health. An exemption was made for countries classified in category one (presence of BSE unlikely), but neither Canada nor the United States were in this category.

98. In June 2007, Canada indicated that his authorities considered both specific trade concerns numbers 96 and 107, to be resolved as they had been overtaken by the OIE's new risk assessment framework and categorization system for BSE risk posed by countries. The EC geographical BSE risk assessment had led to concerns regarding the consistency of the risk analysis and the possibility of reviewing risk assessments over time. The EC transitional TSE measures resulted in the classification of countries according to four levels of risk, but only recognized two levels of risk management. The OIE had made amendments to the Animal Health Code, which updated the risk assessment framework and BSE categorization. As previously reported, Canada was recognized as a controlled risk country for BSE. The European Communities had decided to use the new OIE standards.

99. The European Communities noted that the EC measures on BSE had always been intended to be interim measures. The European Communities had clearly indicated that the measures would be adapted in light of OIE standards, but that interim measures were required to protect health while the OIE completed its work. The interim measures had been proportionate, fair and science-based, especially when compared to the measures imposed by other Members. When cases of BSE had occurred in Canada and the United States, the EC measures had not been changed in any way, whereas many other Members had imposed unjustified measures. Now the OIE had completed an excellent job in preparing appropriate standards, and the European Communities had adapted its measures immediately to ensure full conformity with the new OIE standards. This modification had already been notified to the SPS Committee, and the European Communities was the first Member to fully adopt the new OIE Code. Members had voiced their confidence in the international standards earlier, and the European Communities invited all Members to quickly adopt the OIE standards on BSE.

256. Import restrictions on cooked poultry products from China

Raised by:	China
Supported by:	
Dates raised:	October 2007 (G/SPS/R/46, paras. 9-10)
Relevant document(s):	Raised orally
Solution:	Lifting of ban
Status:	Resolved

100. In October 2007, China raised the concern that since July 2004, the European Communities had suspended the importation of cooked poultry meat from China because of the presence of highly pathogenic avian influenza in China. The OIE guidelines on AI explicitly stated that heat treatment de-activated the virus and that restrictive measures associated with AI should not be applied to cooked poultry meat. The EC Health Commissioner had agreed to lift the prohibition of cooked poultry meat from China into the European Communities, and China requested that this be done as soon as possible in accordance with OIE guidelines and the SPS agreement.

101. The European Communities responded that the prohibition in question had been in place since January 2002 and related not only to avian influenza but also to certain hygiene concerns. These issues had now been resolved and the ban should be lifted within a matter of weeks.

GUATEMALA

CONCERNS RELATED TO MEASURES MAINTAINED BY GUATEMALA

Animal Health and Zoonoses

210. Restrictions on imports of chicken meat

Raised by:	Mexico
Supported by:	European Communities
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 28-29), June 2006 (G/SPS/R/42, paras. 27-29), October 2006 (G/SPS/R/43, paras. 148-149), February 2007 (G/SPS/R/44, paras. 142-143)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

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

103. In June 2006, Mexico noted continuing problems related to Guatemala's import prohibition on poultry meat products and sub-products (including eggs). The long delays with which Guatemala's Ministry of Agriculture (MAGA) had responded to the multiple requests for importation of such products from Mexico violated the timeframes established by Guatemalan authorities. In April 2005, Mexico had sent MAGA the model zoosanitary certificates for approval, accompanied by information on avian diseases in Mexico. Although in November 2005, during a meeting of a bilateral SPS technical expert group, Guatemalan authorities had committed to carry out a risk assessment and provide a response, no response had yet been received. During January and February 2006, Mexico had asked Guatemala to remove restrictions imposed in response to an alleged outbreak of low pathogenic avian influenza, taking into account OIE guidance. At the same time, Mexico requested information on Guatemala's avian influenza situation in order to open Mexico's market for poultry products from Guatemala. Bilateral meetings had been held in the margins of the 34th meeting of the SPS Committee. In June 2006, Mexico had received a communication from MAGA indicating that due to the difference in sanitary status between the two countries, Guatemala would not lift its import restrictions on poultry products and sub-products from Mexico. At the same time, Guatemala declined to respond to Mexico's questionnaire on Guatemala's avian influenza situation. Mexico considered that Guatemala's actions violated the OIE Code and the SPS Agreement, and hoped that Guatemala would soon respond to Mexico's requests, allowing trade of poultry products and sub-products between both countries.

104. The European Communities indicated that exports from EC member States to Guatemala had been disrupted because of avian influenza concerns. The European Communities emphasized that such measures should be proportional to the risk, taking into account Article 6 of the SPS Agreement. The European Communities intended to pursue the issue bilaterally.

105. Guatemala indicated it would work bilaterally to resolve the issue related to EC exports.

106. In October 2006, Mexico reported that although it had taken various measures at bilateral level to reach a solution, Guatemala continued to be in breach of its obligation under Articles 5 and 6 of the SPS Agreement. Mexico requested Guatemala to suspend the restrictions imposed on Mexican poultry imports.

107. Guatemala indicated that a meeting of the technical bodies of both Members was to be held on 17-18 October 2006, where an analysis of the situation would be made. At the meeting, the health situation of both countries, domestic quarantine measures and the situation regarding avian influenza were to be reviewed. Guatelamala was hopeful that the meeting would enable technicians from both parties to reach a satisfactory solution.

108. In February 2007, Mexico reported that despite several bilateral meetings seeking an end to Guatemala's restrictions imposed due to low pathogenic avian influenza, there had still been no response from the Guatemalan Ministry of Agriculture. These restrictions were not in line with the OIE Code. Mexico had requested that Guatemala undertake verification visits, but had not received a satisfactory reply.

109. Guatemala confirmed that following technical meetings and discussions of the sanitary status of both countries, it had agreed to undertake visits to check controls in Mexico. Unfortunately, due to budgetary constraints, these visits had not yet been possible, and further delays had occurred due to changes in the head of the relevant department. However, Guatemala remained committed to resolving this issue.

INDIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Food safety

253. Export certification requirements for dairy products

Raised by:	United States
Supported by:	
Dates raised:	June 2007 (G/SPS/R/45, paras. 19-20), October 2007 (G/SPS/R/46, paras. 27-28)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

110. In June 2007, the United States stated that India had imposed a number of certification requirements on imported dairy products that were trade prohibitive and lacked any scientific justification. These requirements also raised questions regarding national treatment. There was a long history with over 40 years of exports of US dairy products to India with no reported violations of Indian safety standards. Although the United States had proposed certificate language to India in October 2006, no progress had been made towards the resolution of this problem.

111. India observed that the protocol in place in India established limits for contaminants that were in accordance with Codex standards. Indian authorities were still studying the US comments on India's protocol for dairy products.

112. In October 2007, the United States expressed concern that India maintained more stringent maximum residue levels (MRLs) on imported dairy products than it did for domestic products, raising serious questions regarding India's adherence to its international obligations. In October 2006, the United States had proposed a health certificate attesting that US milk and milk products were fit for human consumption. However, India had refused to accept the certificate, highlighting concerns regarding US action levels for dairy products. Bilateral technical meeting had been held in May 2007 to discuss the issue and the United States submitted various supporting documents as requested by the Indian experts., but no response was received. Additionally, the United States had requested bilateral health discussions with the Indian technical experts, but no response had been received. The United States urged India to reconsider its October 2006 certification proposal and also requested India to formally and comprehensively respond to the proposal and subsequent requests.

113. India indicated that a health protocol for dairy products had been in place since 2006 and that it applied to all dairy products being exported to India. Various dairy products from the United States were currently being imported as per the existing protocol. The sanitary certification for India proscribed limits of contaminants in accordance with Codex standards, and India's standards for contaminants in domestic dairy products were also in line with Codex standards for the majority of contaminants and even higher for some. The additional information provided on the USDA Agricultural Marketing Service's (AMS) Pesticide Data Program and on the test results of pesticides in milk samples were being currently examined by technical experts. Regarding the US proposed certificate, India had analyzed the action level of certain contaminants cited in the US document and found that they were less strict than the Codex standards. In a recent high level meeting, it was decided that the United States would send a team of technical experts to India. During a bilateral meeting, just prior to the SPS Committee meeting, the United States had asked for certain clarifications. This request would be conveyed to India's technical experts in capital.

Animal Health and Zoonoses

185. Restrictions due to avian influenza

Raised by:	European Communities
Supported by:	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)
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

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

115. 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.

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

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

118. In June 2007, the United States noted that India was banning poultry, swine and other products in response to the detection of low pathogenic avian influenza 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.

119. The European Communities observed that they had similar concerns regarding India's measures. Although they had been seeking to resolve the matter bilaterally, problems continued to appear and reappear. All Members 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.

120. 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.

121. In October 2007, the United States reiterated concerns regarding India's ban on imports of US poultry, swine and their products due to detections of low-pathogenic 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.

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

123. 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 EC concerns would be reported back to India's technical experts for review.

124. 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.

INDONESIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDONESIA

Animal Health and Zoonoses

244. Importation of live animals and meat products

Raised by:	Brazil
Supported by:	Argentina, Australia, New Zealand
Dates raised:	October 2006 (G/SPS/R/43, paras. 17-21), February 2007 (G/SPS/R/44, paras. 30-31)
Relevant document(s):	G/SPS/N/IDN/30
Solution:	
Status:	Not reported

125. In October 2006, Brazil expressed concern regarding Indonesia's Government Regulation 82/2000 applicable to quarantine import procedures for animals and related products. Brazil noted that Regulation 82/2000 did not comply with the regionalization provisions of Article 6 of the SPS Agreement or with Chapter 1.3.5 of the OIE Territorial Animal Health Code as it did not take into account the sanitary characteristics of the areas from which the products originated, but required the whole territory of an exporting country to be free of any diseases that were not present in Indonesia. As a result of Indonesia's regulation, Brazil was frequently facing import restrictions on a broad variety of its products on the basis of the food-and-mouth disease (FMD), even from FMD free zones. In particular, there was no scientific justification for import restrictions on goods which could not under any circumstance transmit the FMD agent, meat products submitted to treatments which were internationally recognized as capable of inactivating the FMD virus, and restrictions on heat-treated vegetable products. These unjustified import restrictions resulted in huge financial losses. Brazil urged Indonesia to adopt national protection levels based on risk assessments, taking into account the relevant provisions of the SPS Agreement and OIE standards.

126. Argentina, Australia and New Zealand expressed similar concerns regarding Indonesia's draft Regulation (G/SPS/N/IDN/30) on the importation of meat products. They indicated their intentions to submit comments on the draft regulation before the comment deadline. Argentina urged Indonesia to adjust its risk analysis to the OIE standards, while New Zealand further noted that Indonesia had not indicated in its notification when the draft Decree might be adopted. They encouraged Indonesia to work with other Members to address their concerns before adopting the draft Decree.

127. Indonesia reported that with regards to the importation of live animals and meat products, Indonesia had been conducting a review of its legislation and would soon notify to the WTO a new decree on import of meat of various types of species. The new regulation replaced the existing regulation (Decree 745/1992) on the requirements for meat importation. One of the eventual requirements for countries to be eligible to export meat and meat products intended for human consumption to Indonesia was their FMD free status. Recognition of the disease-free status would be based on an OIE declaration. A further requirement for FMD-free countries to export meat to Indonesia would be a desk audit and on-site audit to be carried out by the Director General of Livestock Services (DGLS). In relation to animal importation, existing regulations would remain in effect.

128. With regards to BSE, Indonesia stated that the requirements for the importation of live ruminants and ruminant products from countries or zones declared as negligible BSE risk by the OIE had been set out in a new decree. In principle, under the new regulation, live ruminants and ruminant products from countries or zones declared as negligible BSE risk by the OIE were allowed to be imported to Indonesia. Imports of meat and meat products from BSE-risk countries were prohibited. However, there were exceptions that included meat and meat products originating from de-boned meat as specified in Article 2.3.1.3.1 of OIE Code. The additional requirements to export meat and meat products to Indonesia were that such commodities should have originated from an establishment approved by the DGLS and that also met the healthy food requirement of Indonesia.

129. The OIE clarified that Article 1 of the BSE chapter contained a list of safe commodities that were judged to present no BSE risk no matter the BSE status of the exporting country. This included de-boned skeletal muscle meat that could be imported from a country irrespective of its BSE status.

130. In February 2007, Brazil reiterated its concerns with Indonesia's lack of recognition of regionalization. Indonesia had indicated that its legislation was under revision, and was being harmonized with the OIE standards and SPS requirements, as notified in G/SPS/N/ IDN/30. However, Brazil's analysis of the revision concluded that Indonesia still would not recognize regionalization for FMD and other animal diseases. Brazil had raised its complaint in October 2006, before the end of the comment period provided, but Indonesia's Enquiry Point had never provided answers to the issues raised. Brazil urged Indonesia to ensure the full application of Article 6 of the SPS Agreement and the OIE standards for zoning. The establishment of national protection levels and measures must be based on risk assessments, in accordance with the SPS Agreement.

131. Indonesia recalled that FMD was a very sensitive matter for Indonesia, due to its climate and the outbreak that had occurred five years ago. Article 3.3 of the SPS Agreement permitted Members to impose requirements that went beyond the international standards. Indonesia had to apply a maximum standard in this case, and this would be applied until exporting countries had been declared FMD free by the OIE. Indonesia was looking to continue consultations with Brazil on this issue.

Plant Health

243. Lack of recognition of pest-free areas

Raised by:	United States
Supported by:	Australia
Dates raised:	October 2006 (G/SPS/R/43, paras. 14-16), February 2007 (G/SPS/R/44, paras. 25-26), June 2007 (G/SPS/R/45, paras. 31-32), October 2007 (G/SPS/R/46, paras. 22-23)
Relevant document(s):	G/SPS/N/IDN/24
Solution:	
Status:	Partially resolved

132. In October 2006, the United States expressed concerns regarding Indonesia's Decree 37 implemented in March 2006, which established new phytosanitary requirements on fruit imports that failed to recognize fruit fly free areas in the United States. For decades, US fruits originating from pest-free areas had been shipped to Indonesia without any quarantine incidence. The new measure had resulted in US fresh fruit being subjected to unwarranted pest treatment before being exported to Indonesia. The United States noted that the International Standards for Phytosanitary Measures

(ISPM) guidelines used by the United States were recognized by their trading partners worldwide, but Indonesia had failed to amend its assessment of the fruit fly status in the United States even after the United States had extensively communicated and provided Indonesia's Ministry of Agriculture with the information requested. The measures imposed by Indonesia for quarantine fruit flies were overly restrictive and scientifically unjustified and had impacted exports of eleven types of US fruits, including apples and grapes. The United States requested Indonesia to allow the entry of US grapes accompanied by a Federal phytosanitary certificate and additional documentation attesting that the grapes were grown in a fruit fly-free area.

133. Australia shared the concerns of the United States and indicated that it was working directly with Indonesia and hoped to resolve the issue in the near future.

134. Indonesia reported that the issue had been discussed with the United States in a bilateral meeting. Based on their discussion, Indonesia was confident that the matter would be resolved amicably in the near future. Indonesia indicated that it was to send an expert team to do an on-site inspection of a Mediterranean fruit fly-free area for grapes in the State of California. Indonesia needed further information on the sites to be visited, including the production area of grapes in specific sites in California, substantial geographical information, a list of registered grape growers in the production area of California, information on surface processing, packaging and storage facilities, and the procedure of phytosanitary certification. Indonesia reiterated its commitment to resolving the matter as early as possible and in a mutually beneficial manner.

135. In February 2007, the United States reported that the concerns regarding Indonesia’s Decree 37 had been only partially resolved, but a complete resolution was within grasp. The measure affected US exports of 11 horticultural products. The United States considered that Indonesia imposed excessive phytosanitary requirements in relation to pests that posed no phytosanitary risks to Indonesia because they could not become established.

136. Indonesia indicated that it would follow-up on this matter bilaterally with the United States.

137. In June 2007, the United States indicated that the measure continued to affect US exports of apples, pears and cherries from various states. In May, Indonesia had hosted a meeting of technical experts to consider whether the pests at issue could in fact become established in Indonesia. The United States considered that this disruption of trade should never have occurred, and looked for a rapid resolution of the problem.

138. Indonesia clarified that it prohibited the importation of fruit and vegetables only from countries which had fruit flies that did not exist in Indonesia and which could cause damage if introduced. The products must come from pest-free areas in accordance with ISPM 26, or else the fruits and vegetables must undergo suitable treatment. Indonesia had transmitted to the United States the list of fruit flies that were present in the United States but not present in Indonesia. Indonesian authorities had conducted on-site inspection in the United States to verify the Mediterranean fruit fly free areas, and although the situation was encouraging, Indonesia considered that grape imports posed too high a risk. Furthermore, apple maggots did not exist in Indonesia, and as the United States could not meet the requirements of a pest-free area according to ISPM 26, apples had to be treated by vapour heat treatment, cold treatment or fumigation. Trapping had shown that apple maggots were still present in pest-free areas of the United States. Contrary to US arguments, apple maggots could become established in Indonesia since apples were produced at high altitudes with cool climates. Indonesia was looking forward to receiving further technical information from the United States, and to continuing bilateral efforts to resolve this concern.

139. In October 2007, the United States reported that while exports of apples, pears and cherries had resumed, Indonesia required treatment for pests that did not exist in the exporting regions, or

which could not become established in Indonesian territory. The United States was still waiting for Indonesia to provide a written response to the information that the United States had presented during and after a technical meeting in May 2007, and trusted that Indonesia would continue the technical discussions to resolve the issue.

140. Indonesia noted that it had provided clarifications regarding this issue in previous Committee meetings. The United States and Indonesia had held a bilateral meeting just previous to the meeting and had seriously discussed this issue. Indonesia had agreed to follow up with further communication with the United States.

ISRAEL

CONCERNS RELATED TO MEASURES MAINTAINED BY ISRAEL

Plant Health

233. Phytosanitary import legislation

Raised by:	European Communities
Supported by:	
Dates raised:	October 2005 (G/SPS/R/39, paras. 39-40), February 2006 (G/SPS/R/39, paras. 39-40), March 2006 (G/SPS/R/40, paras. 36-37), June 2006 (G/SPS/R/42, paras. 30-31), February 2007 (G/SPS/R/44, paras. 27-28)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

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

142. In March 2006, the European Communities noted that the continuing absence of phytosanitary import legislation in Israel led to uncertainty for EC exporters and was in contradiction with international standards. Although some corrective actions had been taken by Israel, the legislation continued to be in a draft stage, and final approval by Israel's relevant authorities was still pending. The European Communities urged Israel to adopt national legislation containing phytosanitary import requirements as soon as possible.

143. Israel stressed it's full commitment to comply with the obligations of the SPS Agreement. Israel was aware of the importance of a coherent and transparent legislation to allow the smooth development of international trade. Israel had informed its trading partners that new and

comprehensive draft legislation was under preparation. This legislation would be submitted to Israel's newly elected parliament. Israel had undertaken measures which showed its willingness to respond to its trading partners' concerns.

144. In June 2006, the European Communities complained that Israel's phytosanitary import legislation was still at a draft stage, although efforts were being made to publish the final legislation. The European Communities invited Israel to finally adopt this legislation.

145. Israel explained that the plant protection and inspection services of Israel were revising and modifying Israel's import regulations for plants and plant products. The regulations had existed since 1971, and had been revised and modified since then to comply with the SPS Agreement. Various products and commodities were allowed according to their phytosanitary risk and imports permits for new products were granted after a pest risk analysis. The revision process, which required attention to hundreds of products, was taking longer than expected. The import requirements for most products were already specified in the import permits and could be found on the website of the Ministry of Agriculture, but the interagency legislative process had not yet been completed. The Ministry of Agriculture was expected to send its final draft phytosanitary import legislation to the Ministry of Justice within weeks, then the draft would be sent to the Israeli Parliament. Israel's plant protection and inspection services were doing their utmost to facilitate trade with the European Communities and with other trading partners.

146. In February 2007, the European Communities noted that Israel's lack of phytosanitary legislation lead to uncertainty and unpredictability regarding the steps to be followed when exported products reached the market. Israel had taken some actions to increase transparency by publishing some import requirements on the internet. However, it appeared that the legislation was still at a draft stage, and the European Communities requested Israel to finalize its legislation in accordance with the IPPC standards.

147. Israel expressed regret that this issue had been raised again despite bilateral discussions with the European Communities. The title of this agenda item was not appropriate as Israel had legislation on SPS requirements for imports. The European Communities concern related to the level of specificity of that legislation. Israel understood the need for predictability and was making great efforts in this regard. The Ministries of Agriculture, Finance and Justice were involved in the work. The Ministry of Justice had completed work on a draft, which had been sent to the Ministry of Agriculture for final comments. The final draft would be sent to the Economic and Finance committees before its final approval. There was no timeframe established for the adoption of the legislation, however Israel insisted that this did not create a hindrance to the trade of the European Communities or any other trading partners as trade continued to take place normally.

JAPAN

CONCERNS RELATED TO MEASURES MAINTAINED BY JAPAN

Animal Health and Zoonoses

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

Raised by:	China
Supported by:	
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 33-34), June 2006 (G/SPS/R/42, paras. 25-26), June 2007 (G/SPS/R/45, paras. 46-47)

Relevant document(s):	Raised orally
Solution:	Imports from some enterprises permitted
Status:	Partially resolved

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

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

150. In June 2006, China recalled that Japan's measures with regard to import of straw and forage for feed required unnecessary additional assurances, exceeding the OIE standard. There was no risk of transmission of any disease after straw and forage were heat-treated at a temperature of 80 degrees or more for at least 10 minutes. Japan was using the FMD situation in China as an excuse for trade restrictions and was not applying the concept of zoning/regionalization as there were no new cases of FMD in the counties where straw and forage were produced. China requested Japan to consider the complaints of the Chinese industry as well as of Japanese importers and to amend its unscientific and unnecessary trade restrictions following OIE standards and WTO rules.

151. Japan observed that any straw and forage other than rice straw were permitted for importation into Japan on the condition that pests were not detected in the process of import inspection. Regardless of its use in Japan, the importation of rice straw was prohibited from all countries other than Korea, Democratic People's Republic of Korea and Chinese Taipei. If rice straw went through disinfection treatment, such as heat treatment with water vapour, it could be imported into Japan. In order to prevent the introduction of FMD into Japan, imports of heat-treated straw and forage for feed from China were permitted only if there was no FMD infection around the areas where raw materials were produced, processed and stored and appropriate heat treatment was carried out. Japan had to suspend the importation of heat-treated rice straw in May 2005 after repeated violations of the requirements detected at some ports of entry into Japan. In addition, China had officially notified to the OIE the spread of the infected area and an increase in the number of areas of foot and mouth disease. Japan had not received sufficient data from China to support the claim that rice straw was produced in disease-free areas. Once the data requirements were complete, Japan would review the situation to decide whether the import suspension could be lifted and whether any other pre-export measures were necessary.

152. In June 2007, China reported that much progress had been made towards the resolution of this concern through bilateral meetings. China had invited three delegations from Japan for inspection, and had provided all relevant and requested information. Six Chinese enterprises had been approved by Japan to export straw and forage. China hoped that the dozen enterprises still waiting for approval from Japan would soon be approved.

153. Japan noted that there were two factors that had to be considered: the control measures and the compliance with control measures. Japanese authorities were particularly concerned with how to ensure compliance when there had been a history of poor compliance. On the basis of on-site visits, Japan had scheduled expert consultations which had resulted in some lifting of the suspensions. Japan hoped to be able to lift the suspension soon for other Chinese exporters.

REPUBLIC OF KOREA

CONCERNS RELATED TO MEASURES MAINTAINED BY REPUBLIC OF KOREA

Animal Health and Zoonoses

247. BSE-related measures on beef products

Raised by:	Canada
Supported by:	European Communities
Dates raised:	February 2007 (G/SPS/R/44, paras. 15-18)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

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

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

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

157. Canada stressed that the OIE Code allowed for trade in boneless beef from animals below 30 months regardless of the BSE status of the exporting country. The few cases of BSE in cattle born

after the feed ban had no epidemiological significance. Although Canada was willing to provide any relevant information required, it had been unaware that there were any outstanding requests for information.

248. Regionalization for bovine and pig meat products

Raised by:	Brazil
Supported by:	
Dates raised:	February 2007 (G/SPS/R/44, paras. 19-20), June 2007 (G/SPS/R/45, paras. 40-41)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

158. In February 2007, Brazil raised concerns regarding the lack of recognition of provisions on regionalization by Korea. This raised serious doubts about the criteria used by Korea for its risk assessment and for establishing its appropriate level of protection (ALOP). Despite various requests, Korea never informed Brazil about the sanitary import requirements for beef and pig meat, but claimed that specific import conditions could not be established because Brazil was not free of FMD. This requirement was not in compliance with the OIE guidelines, nor with Articles 3, 5 and 7 of the SPS Agreement. The OIE did not establish different import requirements for meat from areas free from FMD whether with or without vaccination. Brazil sought to export meat from a zone free of FMD without vaccination, but Korea refused to discuss this issue before FMD was eradicated from all of Brazil without vaccination. Korea should provide the risk assessment which supported this measure, which did not conform to Article 6. Brazil appreciated the information on import procedures recently provided by Korea, but this did not meet Brazil's request. Korea required completion of a questionnaire and an on-site visit just to establish import requirements, whereas this was justified only in order to recognize disease-free status or evaluate veterinary services. Although a Member could determine its ALOP, the measure taken must have a scientific justification and be based on a risk assessment. It was also disappointing that Korea appeared to not even recognize the concept of regionalization.

159. Korea responded that it accepted the concept of regionalization as contained in Article 6, based on factors such as geography, etc, and this was included in Korea's import policy. However, Korea had not yet applied this policy with respect to FMD. Korea had experienced an FMD outbreak in 2002-2003, and had subsequently regained its status as FMD-free without vaccination at great cost. Because of this, Korea was very concerned about FMD and required suppliers to be free of FMD without vaccination. FMD outbreaks in several areas of Brazil in 2005 and again in 2006 led Korea to conclude that the FMD situation in Brazil was unstable, and that Brazil needed to establish FMD free zones through strict measures. Korean authorities were ready to continue discussing this matter with Brazil at the expert level.

160. In June 2007, Brazil stated that although Korea claimed to accept the concept of regionalization in general, it continued to refuse to apply regionalization in practice for FMD. This was contrary to both the SPS Agreement, and the OIE Code. If Korea wanted to maintain a measure that reflected a higher ALOP than that provided by the relevant international standard, Korea should provide the risk assessment supporting its measure. However, Brazil had not received any such information from Korea, and there had been no bilateral progress towards resolving the problem.

Members should give full weight to the mechanism for raising specific trade concerns in the Committee; they should seek to resolve these problems and to avoid unnecessary barriers to trade.

161. Korea noted that an outbreak of FMD in Korea could bring social disruption and cause serious economic damage. Korean authorities were engaged in assessing the risk of importing heat-treated beef from all of Brazil, taking into account the OIE Code. Korea had sent a questionnaire in December 2006, and was awaiting Brazil's response. Korea was committed to continue bilateral talks to resolve this concern in a cooperative manner.

PANAMA

CONCERNS RELATED TO MEASURES MAINTAINED BY PANAMA

Animal Health and Zoonoses

226. Inspection regime for agricultural products

Raised by:	Costa Rica
Supported by:	Argentina, Canada, Colombia, United States, European Communities
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 39-41), February 2007 (G/SPS/R/44, para. 63), June 2007 (G/SPS/R/45, paras. 48-49)
Relevant document(s):	G/SPS/N/PAN/43, G/SPS/GEN/582
Solution:	
Status:	Resolved

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

163. Argentina, Canada, Colombia, the European Communities and the United States reported experiencing similar difficulties accessing the Panamanian market. Argentina had sanitary difficulties in relation to FMD and bureaucratic difficulties which did not seem to be designed to protect animal health in Panama (see Panama- FMD restrictions). The European Communities had suddenly been faced with a new Panamanian health legislation referring, firstly, to a system which seemed to link obtaining an import licence for Panama to a payment and, secondly, to an inspection system which would be paid for by the exporting country. The United States recalled an issue raised at the March 2005 meeting of the Committee concerning the expansion of Panama's inspection programme to most food processing establishments and the non notification of this significant change in Panama's import regime. Canada had been experiencing problems with Panama's requirement for plant-by-plant approvals for meat exports and the recent changes to Panama's inspection regime.

164. Panama reminded the Committee that it was the first time that this issue of plant inspection was raised by Costa Rica before the SPS Committee. Panama's inspection regime followed the

fundamental principles of the SPS Agreement and of OIE and IPPC standards. Risk assessment methods comprised two parts: the protection of Panama's health status and the functioning of the Ministry of Agriculture. The excellent quality of Panama's exports of cattle and dairy products was due to a stringent application of the SPS measures domestically and to imports. Because of its geographical situation as a hub for world trade, Panama was exposed to a greater risk of introduction of pest and animal diseases and therefore had to undertake a risk assessment prior to authorizing imports from countries affected by exotic diseases. The risk assessment undertaken by the Panamanian authorities would shortly be given to the Costa Rican delegation.

165. In February 2007, Panama recalled Costa Rica's concerns regarding its inspection regime, in particular with regard to dulce de leche and tomatoes, as detailed in document G/SPS/GEN/582. Following a number of bilateral meetings, in October 2006 Costa Rican officials had issued a communication indicating the resolution of these issues.

166. In June 2007, Costa Rica recognized that Panama had established a new regulation, and on the basis of an analysis of this, Costa Rica concluded that its concerns had been resolved.

Other concerns

118. Import licenses for agricultural products

Raised by:	Canada
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, para.26), February 2007 (G/SPS/R/44, para. 61)
Relevant document(s):	Raised orally
Solution:	
Status:	Resolved

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

168. In February 2007, Canada indicated that it considered this specific trade concern to be resolved. Canada had previously been concerned that the issuance of SPS-related import licenses was being hindered for non-SPS reasons, however that concern had been resolved through a bilateral discussion. Panama confirmed that the issue had been resolved and stressed their objective of smoother trade relations.

ROMANIA

CONCERNS RELATED TO MEASURES MAINTAINED BY ROMANIA

Animal Health and Zoonoses

245. Restrictions on US pork and poultry imports

Raised by:	United States

Supported by:	
Dates raised:	October 2006 (G/SPS/R/43, paras. 25-27), June 2007 (G/SPS/R/45, paras. 38-39)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

169. In October 2006, the United States expressed concern about Romania's decision to already impose EC requirements on US poultry and pork, in advance of Romania's entry into the European Communities. This resulted in large financial losses to US exporters. The United States noted that no poultry and only two pork facilities in Romania met EC requirements. Romania's measures therefore raised potential national treatment concerns, given that a considerable number of Romanian meat plants were currently not in compliance with the EC regulations and many of the plants had been granted a transition period to 2009 to meet these requirements.

170. Romania expressed surprise that the United States had raised this issue as an acceptable solution to both parties had been sought during a series of bilateral meetings. Although Romania had decided to extend the implementation date of these regulations for US exports, the new regulations were adopted as part of the requirements for Romania's accession to the European Communities. According to the Accession Treaty signed on 25 April 2005, Romania had committed to adopt the EC legislation and was expected to fully comply with SPS legislation already in force in the European Communities before its accession on 1 January 2007. Romania noted the difficulty it faced in modifying and implementing these new rules, but indicated that Romanian producers observed the same rules as other EC member States and third countries. To ensure transparency and give Members the opportunity to prepare for the new import conditions, all Romanian legislation on import conditions for pork and poultry meat had been notified to the SPS Committee.

171. The European Communities suggested that the United States should look at the broader benefits of Romania's and Bulgaria's accession to the European Communities. This was fully supported by the global community and provided an outstanding opportunity for the Members concerned to strengthen economic growth and development.

172. In June 2007, the United States observed that prior to Romania's accession to the European Communities, the United States had successfully exported pork and poultry products to Romania. Since accession, poultry exports had ceased, while exports of pork and red meat had been drastically reduced. Although product imported into Romania was now required to meet EC standards, Romanian-produced goods benefited from a derogation until 2009. This appeared to be a direct violation of Article 2 of the SPS Agreement.

173. The European Communities observed that the issue had arisen because producers in countries which became members of the European Communities were required to either comply with the existing EC regulations or close. A limited number of Romanian establishments had been given a brief derogation while they chose to either upgrade their facilities or to close these down. The derogation was subject to strict conditions and these establishments were permitted to sell their products only in Romania. The United States should exercise some patience and understanding given the low living standards in Romania, which had so recently joined the European Communities. The immediate closure of all of these establishments would exacerbate the high unemployment situation of Romania.

UNITED STATES

CONCERNS RELATED TO MEASURES MAINTAINED BY UNITED STATES

Animal Health and Zoonoses

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

174. 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.

175. 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.

Plant Health

102. Import restrictions on potted plants from the European Communities

Raised by:	European Communities
Supported by:	China
Dates raised:	July 2001 (G/SPS/R/22, paras. 30-31), March 2005 (G/SPS/R/36/Rev.1, paras. 58-60), June 2005 (G/SPS/R/37/Rev.1, paras. 70-71), October 2005 (G/SPS/R/39, paras. 72-73), February 2006 (G/SPS/R/39, paras. 72-73), March 2006 (G/SPS/R/42, para. 40), February 2007 (G/SPS/R/44, para. 62)
Relevant document(s):	G/SPS/N/USA/1059
Solution:	Reported as resolved in June 2006, with the issuance of the US final rule on plants in growing media. However, in February 2007, the EC reported that the issue remained unresolved due to continued difficulties faced by one EC Member state.
Status:	Not reported

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

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

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

179. The United States recognized the importance of this issue to the European Communities and had taken a number of steps to ensure that the concerns were handled as expeditiously as possible. The United States was examining how and whether its import regulations for nursery stock, including plants in growing media, might be changed. An advanced notice of proposed rulemaking had been published in December 2004, and all Members could provide comments on that proposal. The proposal sought to streamline the specific process questioned by both the European Communities and China. The United States hoped to publish a proposed rule for Schlumbergera from the European Communities in the near future.

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

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

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

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

184. At the June 2006 meeting of the SPS Committee, the European Communities indicated that the issuance of the US final rule on plants in growing media, including Schlumbergera, would resolve this issue.

185. In February 2007, the European Communities recalled that they had previously reported that their concerns regarding US measures on plants and growing media had been resolved as the United States had indicated that it would publish a final rule which addressed these concerns. Unfortunately, one EC member State continued to face difficulties in exporting to the United States. The European Communities therefore considered that, for the time being, this issue was as yet unresolved.

241. Import restrictions on wooden Christmas trees

Raised by:	China
Supported by:	
Dates raised:	June 2006 (G/SPS/R/42, paras. 13-14), October 2006 (G/SPS/R/43, paras. 145-146), October 2007 (G/SPS/R/46, paras. 20-21)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

186. In June 2006, China expressed concerns regarding the US decision to stop the importation of artificial Christmas trees from China, although only one enterprise had violated the quarantine treatment requirement which had resulted in the detection of live long-horn beetles in its consignment. This exceptional incident did not indicate a defect of the whole Chinese system. The strict measure taken by the United States did not respect the WTO rules on minimizing the impact on trade and had caused great losses for Chinese enterprises and had also affected the US Christmas tree market. Furthermore, there was an undue delay in the way the issue was dealt with by the United States. The Chinese Government had spared no effort to take corrective measures regarding the whole system, including the enhancement of supervision of the quarantine and inspection system and receiving US

inspectors in several provinces in February 2006. Although the experts had indicated their satisfaction with the improvements, no formal response had been received from the United States.

187. The United States replied that between 22 February 2002 and 22 October 2005, during routine 2 percent inspections at US ports of entry, the United States had intercepted quarantine significant pests on wood handicraft products shipped from China 418 times, including on artificial Christmas trees, trellis towers, other home and garden wood décor, and craft items. These interceptions had not abated. The plant quarantine authorities of the United States and China had maintained an on-going dialogue regarding such interceptions. This wood boring pest was closely related to the Asian longhorned beetle which had been introduced into the United States in shipments of wood packing material from China and was now being eradicated in Chicago and New York. The United States had spent in excess of US$200 million on its ongoing eradication effort. Although the United States had requested China to provide an action plan to address the infestations, no response had been received. On 1 April 2005, the United States had adopted emergency measures to suspend the importation of wood handicraft items from China, including artificial Christmas trees, that contained wooden logs, limbs, branches, or twigs greater than one centimetre in diameter and with intact bark. Manufactured items that had been heat treated or fumigated with methyl bromide and had 100 percent of the bark removed were not subject to the import suspension, so the US measure was no more trade-restrictive than necessary. When its assessment of the risk of continued introduction of quarantine pests on manufactured wood commodities from China was completed, this would be shared with China's plant quarantine authorities.

188. In October 2006, China reported that although some progress had been made following bilateral consultations, it was still concerned that the restrictions imposed by the United States were disproportionate and not necessary. Although imports of manufactured items which had been heat treated or fumigated with methyl bromide were permitted, no information was provided to China since the United States had detected beetles in wooden trees. China requested details of the enterprises that failed to meet the US quarantine requirements. China had adopted IPPC standards to treat the wooden handicrafts and therefore expected the United States to accept the Christmas trees or to identify alternative procedures so that Chinese enterprises knew how to meet the US requirements.

189. The United States indicated that the measures imposed on the importation of certain manufactured wood items (including artificial Christmas trees with bark attached) from China were imposed after no response was received for a requested plan of action to address the issue. Manufactured wood items that were heat treated or fumigated with methyl bromide and that had their bark removed were not subject to the import restriction. Progress had been made during the bilateral technical discussions in September 2006 and the United States looked forward to receiving China's accreditation proposal for fumigation and heat treatment of wood handicrafts from China.

190. In October 2007, China reiterated that since 2005, when the United States suspended certain wooden handicrafts, the trade of these products had not resumed. Trade affected by this measure already amounted to over 1 million dollars. All products exported from China were fumigated with methyl bromide or were heat-treated to eliminate the risk of pests. The wooden Christmas tree which was found by the United States to have pest insects was a single violation and a problem of exceptional incidence rather than a problem with the heat treatment or fumigation methods. US experts had found a satisfactory treatment supervision system in China in February 2006. The suspension of all imports based on one case was not in line with the WTO principle of least trade restrictive. On the other hand, in 2006 and 2007, China intercepted more than ten types of pests from US imports and yet China had not taken any measures nor suspended the importation of US wooden products. The United States and China had reached an agreement on the framework for inspection management measures on wood handicrafts exported to the United States after technical meetings were held in Beijing in April 2007. China requested that the United States consider the IPPC

guidelines in wood packaging and the SPS Agreement requirement of least trade restriction, and resume the importation of these products on the basis of scientific analysis.

191. The United States recalled that since mid-2004 it had intercepted more than 400 brown fir beetles over a two-year period. Quarantine pests had even been detected on products that had reportedly, according to the certification by Chinese officials, been fumigated or heat-treated. At the time, the United States actively sought input of Chinese quarantine officials to develop a plan of action to address this problem, but did not receive any response. Therefore, on 1 April 2005 the importation of the handicrafts were suspended to prevent the introduction of dangerous forest pests. The restrictions did not apply to products which had been treated and had the bark removed. Prior introduction of forest pests from China, including the Asian long horned beetle and the emerald ash borer, had serious environmental and economic consequences in the United States. The United States was in the final stages of the risk assessment analysis and hoped that this assessment would be available for public comment in the near future. The United States had been very transparent regarding this issue and had maintained significant dialogue with the Chinese officials. The United States had also provided significant funding to support training for Chinese port personnel on appropriate treatments for exported Chinese wooden handicrafts. The United States was committed to continuing the dialogue with Chinese officials in order to reach a solution on this issue.

CERTAIN MEMBERS

CONCERNS RELATED TO MEASURES MAINTAINED BY CERTAIN MEMBERS

Food safety

250. Trade restrictions related to national systems for determining maximum residue levels (MRLs) for pesticides

Raised by:	Argentina
Supported by:	Certain Members
Dates raised:	June 2007 (G/SPS/R/45, paras. 12-14)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

192. In June 2007, Argentina raised the concern that a number of Members establish maximum residue levels (MRLs) for pesticides at levels that are more restrictive to trade than the levels established by the Codex. These lower MRLs had a particularly negative impact on developing countries, since they often concerned some of the older pesticides on the market. The prices for older pesticides were usually lower than for the newest products, in particular for those products no longer under patent protection. Argentina considered that these Members were not taking into account their obligations under the SPS Agreement, in particular under Article 10.1. Argentina was also concerned regarding the review and maintenance of Codex MRLs for older pesticides, an issue they addressed under the agenda item on monitoring the use of international standards.

193. Many Members shared Argentina's concern and stressed that MRLs which were not based on those established by Codex should not be maintained without appropriate scientific justification as required by the SPS Agreement. Several suggested that the Committee should analyze the use of and

deviations from international standards, to ensure that SPS measures did not present disguised barriers to trade for products from developing countries.

194. Codex noted that the Codex Committee on Pesticide Residues had recently adopted new procedures to allow more rapid development of MRLs. If the necessary data were available, it should usually take no more than two years for Codex to establish MRLs for a pesticide in various products.

Animal Health and Zoonoses

193. General import restrictions due to BSE

Raised by:	European Communities
Supported by:	Canada, United States
Dates raised:	June 2004 (G/SPS/R/34, paras. 37-38), October 2004 (G/SPS/R/35, paras. 85-86), June 2005 (G/SPS/R/37/Rev.1, paras. 75-76), February 2007 (G/SPS/R/44, para. 29)
Relevant document(s):	Raised orally
Solution:	
Status:	Partially resolved

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

196. 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.

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

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

country. The European Communities invited the remaining WTO Members to replace their import bans with specific import requirements in accordance with OIE standards.

199. 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.

258. Import restrictions on beef and beef products due to Blue Tongue disease

Raised by:	European Communities
Supported by:	
Dates raised:	October 2007 (G/SPS/R/46, para. 13)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

200. In October 2007, the European Communities stated that certain WTO Members were imposing unjustified import restrictions that went beyond the recommendations of the international standard-setting organizations on the basis of the presence of Blue Tongue disease. The OIE Terrestrial Animal Health Code contained clear recommendations regarding Blue Tongue disease. While WTO Members might review the import conditions for live ruminants or genetic material in light of the recent outbreaks in a limited number of EC member States, there was no scientific basis for imposing additional import restrictions on beef and beef products. According to the OIE, these products did not pose a risk from a Blue Tongue perspective. The European Communities was not aware of any scientific justification and urged Members not to impose import restrictions.

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