WORLD TRADE ORGANIZATION

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Committee on Sanitary and Phytosanitary Measures

SPECIFIC TRADE CONCERNS

Note by the Secretariat[1]

Addendum

ISSUES NOT 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 between 1995 and 2007, and on which no further discussion or activities occurred during 2007. However, issues raised as of 1995 but for which a resolution was reported prior to 2007, are not contained in this part but are contained in Part 4 of this document.

[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.

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ARGENTINA

CONCERNS RELATED TO MEASURES MAINTAINED BY ARGENTINA

Animal Health and Zoonoses

38. Temporary prohibition of fresh pork and products

Raised by:	European Communities
Supported by:	
Dates raised:	March 1998 (G/SPS/R/10, paras. 34-35)
Relevant document(s):	G/SPS/N/ARG/9
Solution:	
Status:	Not reported

1. The European Communities observed that the Argentine measure applied to the entire European Communities. The European Communities had taken measures to regionalize the EC member States with restrictions with regard to Classic Swine Fever. Argentina replied that it believed in the principle of regionalization, but had found that there was no basis to assume compliance within the European Communities. Argentina had requested information from a number of EC member States, but only four countries had responded. Classic Swine Fever was a highly infective OIE List A disease which had not occurred in Argentina since 1985. Argentina would assess information received so as to adjust its measure as appropriate.

84. Import restrictions affecting BSE-free countries – Maintained by Argentina, Australia, Canada, Republic of Korea, New Zealand, United States

Raised by:	Bulgaria, Croatia, Czech Republic, Estonia, Latvia, Poland, Romania, Slovak Republic, Slovenia
Supported by:	United States, European Communities
Dates raised:	March 2001 (G/SPS/R/21, paras. 18-25), July 2001 (G/SPS/R/22, para. 48)
Relevant document(s):	G/SPS/GEN/247, G/SPS/N/ARG/59, G/SPS/N/AUS/125, G/SPS/N/CAN/94, G/SPS/N/KOR/83, G/SPS/N/NZL/77, G/SPS/N/USA/379
Solution:	
Status:	Not reported

2. On behalf of a group of countries (see table above), Romania drew attention to a number of emergency notifications banning imports of certain animal products from countries that were BSE-free. These measures violated the SPS Agreement since they were not based on a proper risk assessment. The affected countries were willing to provide the necessary documentation of their BSE-free status. The European Communities added that testing or suspension of imports of milk, dairy products, collagen and gelatine for BSE was not in conformity with OIE guidelines, and requested Members to adapt their requirements to the international standard. The United States affirmed that BSE-related measures must be based on science and international standards. The United States, although BSE-free, had also been affected by import restrictions, some of them imposed by countries sponsoring the statement presented by Romania. The United States had provided evidence on its

freedom from BSE, its surveillance system and control measures to interested trade partners, and required similar data from countries that may pose a BSE risk. The United States looked forward to receiving the necessary information to assess the risks involved.

3. New Zealand and Australia were concerned over the increase in known incidence of the disease in Europe as a result of intensified testing, and had issued emergency food standards to protect public health. They were developing permanent measures, which would be notified to allow for comments from interested Members. Canada had not recognized any of the countries of the joint declaration as BSE-free, and would evaluate individual countries based on a risk assessment as soon as the necessary information was received. Korea indicated that a temporary measure had been introduced because of the increased prevalence of BSE in Europe. Korea would seek the additional information necessary for a more objective assessment of the risks involved. Argentina indicated that its emergency measure was based on the scientific information available at the time, and stressed that any new information received would be considered. Bulgaria pointed out that according to Article 5.7 Members were obliged to request additional information when temporary measures were implemented. Brazil reaffirmed Members' right to go beyond international guidelines based on a risk assessment, but stressed that this should only take place once the necessary information had been provided.

4. In July 2001, Bulgaria reiterated its concern regarding import restrictions affecting BSE-free countries.

138. Pest risk assessment requirements

Raised by:	United States
Supported by:	Canada, New Zealand, European Communities
Dates raised:	November 2002 (G/SPS/R/28, paras. 80-82)
Relevant document(s):	G/SPS/N/ARG/67 and G/SPS/N/ARG/68
Solution:	
Status:	Not reported

5. The United States sought clarification on the criteria Argentina would use in determining whether or not a product tracing system through the production and marketing chain met the requirements of this measure. The measure also referred to mutual agreements under which Argentina authorized imports of animals and animal products and the United States requested information about existing agreements that Argentina might have concluded, as well as the criteria and procedures for future such agreements. Furthermore, the United States sought information on the role of equivalence under this measure, for example, would Argentina recognize the overall inspection systems of exporting countries, or only verify compliance with Argentine requirements?

6. Canada stated that certain elements of Argentina's measure were unnecessarily trade restrictive, such as the requirement for an audited traceability system throughout the entire product and marketing chain for a wide range of products, live animals, reproductive material, soil dressing etc. Canada was concerned that all foreign establishments would be subject to prior inspection and authorization that was only valid for two years. This requirement provided no flexibility for cases where no risk problems were present, and could result in high costs to exporters. The representatives of New Zealand and of the European Communities supported the concerns raised by the United States and Canada and expressed a systemic interest in the issue.

7. Argentina requested the United States to provide its questions in writing. The notification was open for comments and the period for comments had been extended due to requests from trading partners. Argentina noted that other countries, including the European Communities, approved plants for export to their markets only after visiting those plants.

236. Restrictions on beef exports under the Hilton Quota

Raised by:	European Communities
Supported by:	
Dates raised:	March 2006 (G/SPS/R/40, para. 34)
Relevant document(s):	Raised Orally
Solution:	
Status:	Not reported

8. In March 2006, the European Communities reported that Argentina had placed restrictions on its own beef exports, reducing in particular the quantity of beef it exported under the so-called Hilton Quota. The European Communities understood that this measure was taken due to concerns about the quantities and prices of beef available on the Argentine domestic market. However, according to the European Communities, this trade disruption could lead to a weakening of the SPS controls necessary to ensure that beef exports met the SPS requirements of the European Communities. The European Communities sought assurances that its sanitary requirements could be met, particularly in terms of traceability, if export quantities were substantially reduced. Argentina indicated that it had taken note of the concern of the European Communities.

AUSTRALIA

CONCERNS RELATED TO MEASURES MAINTAINED BY AUSTRALIA

Animal Health and Zoonoses

50. Quarantine requirements for chicken meat

Raised by:	Thailand
Supported by:	European Communities
Dates raised:	September 1998 (G/SPS/R/12, paras. 42-45), October 2001 (G/SPS/R/25, para. 37), June 2002 (G/SPS/R/27, paras. 135-137), November 2002 (G/SPS/R/28, paras. 190-192), April 2003 (G/SPS/R/29, paras. 60-62), June 2003 (G/SPS/R/30, paras. 54-56)
Relevant document(s):	G/SPS/N/AUS/72, G/SPS/GEN/90, G/SPS/GEN/96, see also G/SPS/R/13, G/SPS/GEN/137 and GSPS/W/107/Rev.1
Solution:	
Status:	Not reported

9. In September 1998, Thailand stated that Australia's requirement for the importation of chicken meat was in excess of what was needed to protect health, and was not viable for commercial

manufacturing. The European Communities added that Australia's recommended temperature and time requirements created an extreme and unnecessary barrier to trade, and committed to providing a list of relevant questions to Australia. Australia replied that its import requirements were based on scientific principles and data. AQIS had based the final heating requirements on research on the inactivation of infectious bursal disease virus (IBDV) strain CS88, a highly virulent strain exotic to Australia. Extensive consultations had been held with Thai and other quarantine authorities to discuss the issue, and Australia was prepared to provide any further information requested. Australia was considering whether additional scientific research could be usefully conducted to enhance scientific understanding and methods of inactivation of various poultry pathogens.

10. In October 2001, Thailand reported that the Department of Livestock Development was finalising its risk analysis on IBVD. A public hearing would be held before the analysis was presented to Australia. In May 2001, the OIE had agreed to conduct research on appropriate heat treatment to inactivate the IBD virus in poultry.

11. In June 2002, Thailand informed the Committee that its risk assessment on IBD virus in Thai cooked chicken meat to Australia showed that the risk of introducing IBDV to backyard flocks through cooked chicken meat was negligible. This report had been submitted to Australia in May 2002. Thailand hoped that within its new food safety mandate, the OIE would undertake work on IBD. Australia indicated that conditions for importation of cooked chicken had come into effect in August 1998, setting certain time and temperature cooking parameters. Thailand had applied for access for product from a certain facility, and had recently provided information. Australia would provide a response once the Thai document had been considered by an expert review group. The representative of the OIE reiterated his request that Members submit information on IBD to be able to make progress with the work undertaken by the OIE.

12. In November 2002, Thailand indicated that it was still waiting for a response from Australia on the basis of the risk assessment results. Australia noted that at its recent meeting the Australian risk analysis panel had examined the Thai document in detail. The panel had prepared technical comments and questions about aspects of the Thai risk assessment which would shortly be sent to the relevant Thai authorities. The representative of the OIE took note of the risk analysis document, and indicated that as soon as the OIE received more information and data from Members it would be in a position to review the OIE chapter through its expert working group.

13. In April 2003, Thailand stated that Australia's import risk analysis process was very complicated, unduly long and conducted without a specific timeframe. Australia responded that current arrangements were the product of a science-based risk assessment which had not been formally challenged. Biosecurity Australia was studying Thailand's risk analysis on cooked chicken meat, received in May 2002, along with additional information provided in January 2003. Australia aimed to complete the current risk analysis on chicken as soon as possible.

14. In June 2003, Thailand reported that no progress had been made since it provided scientific information to Australia in May 2002. Australia noted that cooked chicken meat from Thailand was allowed into Australia if requirements were fulfilled, in accordance with scientific findings. The representative of the OIE indicated that they had considered the issue in January 2002 and had requested more and new scientific information, however, no new information had been forthcoming.

84. Import restrictions affecting BSE-free countries – Maintained by Argentina, Australia, Canada, Republic of Korea, New Zealand, United States **[See Item 84, page 1]**

139. Restriction on pigmeat

Raised by:	European Communities
Supported by:	Canada, United States
Dates raised:	November 2002 (G/SPS/R/28, paras. 75-76), April 2003 (G/SPS/R/29, paras. 67-69), June 2005 (G/SPS/R/37/Rev.1, paras. 56-58)
Relevant document(s):	WT/DS287/1, G/SPS/GEN/384 and Add.1, WT/DS287/8
Solution:	Dispute settlement. Panel established 7 November 2003, never composed. Mutually agreed solution to the dispute reported on 9 March 2007
Status:	Not reported

15. In November 2002, the European Communities noted that Australia banned imports of pigmeat from the European Communities, except Danish pigmeat subject to a specific heat treatment. Australia had begun a risk assessment for pigmeat imports in May 1998, and although the results had been scheduled for February 2000 they had not been presented and no alternative date had been set. Four and a half years was too long a delay to wait for a risk assessment to be undertaken. The European Communities had formally proposed equivalent measures, but Australia had not accepted these. The European Communities requested Australia to take a decision as quickly as possible.

16. Australia indicated that a generic import risk analysis (IRA) of the quarantine risks and risk management options associated with disease agents that may be introduced into Australia with pigmeat imported from a number of countries, including EC member States was being conducted. A technical issues paper issued early in 2001 identified a range of quarantine risks including foot-and-mouth disease, African swine fever, classical swine fever, as well as various other pig diseases. The pigmeat IRA was necessarily comprehensive and complex; Australia's pig industry had a very favourable health status. In the case of EC exports, the risk analysis had to deal with three OIE List A diseases, as well as a number of other serious diseases present in EC member States but absent in Australia. For some serious diseases little scientific information was available and Australia had to commission significant research to provide independent scientific information on a range of issues including the transmissibility of Porcine Respiratory and Reproductive Syndrome (PRRS). The results of some mayor research was expected to be available at the end of the year. Technical input from the European Communities on PRRS and other diseases being considered in the import risk analysis would be welcomed.

17. In April 2003, the European Communities noted that it had taken 17 years to obtain some access for processed meat from Denmark into Australia. Furthermore, there was still no date given for the publication of the general risk assessment undertaken by Australia in 1998. The European Communities questioned why there was still a debate on the methodology to be used for conducting the risk assessment four-and-a half years after the risk assessment had begun. The time necessary for completion of the IRA was excessive and the requirements for Danish imports were disproportionate to the risk. The European Communities called on Australia to publish the IRA without further delay and to give positive consideration to equivalent measures. Canada also expressed frustration with the delays in Australia's IRA procedures.

18. Australia observed that Aujetsky's disease was eradicated in Denmark only in 1992 and following that PRRS emerged. This had to be considered in the import risk analysis commenced in 1994. The import of pigmeat from Denmark, subject to certain requirements, was approved in 1997. A generic import risk analysis on pigmeat was assessing import requests from a wide range of countries. Various updates had been provided – including a recent update to the European Commission. Comments on the methodology paper were welcomed and a draft of the risk assessment would be available as soon as possible. The process was transparent and science-based. Independent

research on PRRS had demonstrated oral transmission of the virus via pigmeat. Given the lack of scientific information on its transmission via meat, Australia was seeking the information needed for an informed quarantine policy decision.

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

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

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

Plant Health

74. Restrictions on imports of tropical fresh fruit

Raised by:	Philippines
Supported by:	Brazil, India, Korea, Republic of, Malaysia, Thailand, United States, European Communities
Dates raised:	March 2000 (G/SPS/R/18, para. 67), June 2000 (G/SPS/R/19, paras. 15-20)
Relevant document(s):	G/SPS/GEN/189, G/SPS/GEN/194, WT/DS270/1, G/SPS/GEN/345, WT/DS270/5/Rev.1, WT/DS271/1, G/SPS/GEN/346
Solution:	Dispute settlement. Consultations requested. Panel (DS270) established 29 August 2003. Composition pending
Status:	Not reported

22. In March 2000, the Philippines reported that its exports, including mangoes, bananas and pineapples, faced phytosanitary restrictions in Australia. Australia explained that in response to a request for access, Australia conducted an open, transparent and consultative process of scientific risk assessment and risk management to avoid the introduction of diseases. Both countries indicated that they were conducting bilateral consultations on the matter.

23. In June 2000, the Philippines pointed out that major ASEAN exports to Australia faced stringent SPS measures that were not based on a risk assessment. These measures were more restrictive than necessary, and should be reviewed within a reasonable period of time. Malaysia suggested Australia carry out ASEAN-wide risk assessments. Australia offered detailed comments on

each of the points raised by the Philippines and noted that a formal response would be provided in due course. In response to Malaysia, Australia explained that pest risk analysis was specific to the trading partners involved and varied according to the exporter's pest status.

24. The United States urged Australia to expedite its decisions regarding market access for Florida citrus and California table grapes. Australia replied that an import risk analysis had been completed for table grapes, several appeals had been addressed, and the relevant information was about to be released. In response to Brazil's comments regarding its market access applications for mango and papaya, Australia confirmed that these were on the list of matters to be considered by Australian risk analysts. With reference to India's concern about market access for mangoes, Australia reported that Indian authorities had provided helpful information regarding the efficacy of treatment for pests in mangoes, and that Australia was currently evaluating that information. Regarding EC concerns, Australia confirmed that an import risk analysis was being conducted on bulbs. Australia noted that it was necessary to set priorities for risk assessment given scarce financial and human resources.

78. Notification on methyl bromide

Raised by:	European Communities
Supported by:	
Dates raised:	November 2000 (G/SPS/R/20, paras. 95-96)
Relevant document(s):	G/SPS/N/AUS/118
Solution:	
Status:	Not reported

25. The European Communities was concerned with Australia's proposed introduction of minimum standards for fumigation with methyl bromide, which required a minimum temperature of 10 degrees for fumigation. This new measure could significantly constrain EC exports. The European Communities requested additional information on Australia's risk assessment and any other relevant evidence. Australia responded that the proposed standard was the result of quarantine breaches involving ineffective fumigation treatment of various imported goods. To improve the efficacy of fumigation prior to export, Australia developed a standard reflecting best practice guidelines in the use of methyl bromide. Australia was still considering the comments it had received on its notification of this proposed measure, and implementation of the new measure would be delayed until early 2001. With regard to the minimum temperature requirement, this was based on expert advice and reflected the minimum temperature requirement established by the European Plant Protection Organization.

79. Import restrictions on durian

Raised by:	Thailand
Supported by:	India, Malaysia, Philippines, European Communities
Dates raised:	November 2000 (G/SPS/R/20, paras. 11-14), October 2001 (G/SPS/R/25, paras. 107-108), June 2002 (G/SPS/R/27, paras. 133-134), November 2002 (G/SPS/R/28, paras. 187-189), April 2003 (G/SPS/R/29, paras. 48-50), June 2003 (G/SPS/R/30, paras. 50-53)

Relevant document(s):	G/SPS/GEN/217, G/SPS/GEN/218, G/SPS/N/AUS/83
Solution:	
Status:	Not reported

26. In November 2000, Thailand reported that it had sought access to the Australian market for durian since 1991, but Australia had notified its draft import risk analysis only in February 1999. In August 2000, Australia informed Thailand that durian fruit imports would be permitted only under unduly restrictive conditions, including excessively trade restrictive sampling requirements. Furthermore, the seasonal limitation on shipments, as well as the requirement that fruit come only from the eastern region of Thailand, did not appear to be justified.

27. Australia noted that it had been difficult to obtain accurate information on the relevant anthropod pests and diseases present in Thailand, although the numerous bilateral contacts on this matter had resulted in an expansion of the scientific information available. Australia noted that the draft conditions established for import of fresh durian fruit had been discussed with the Thai government. The Australian delegate explained the justification for the requirements and acknowledged that the conditions were very strict, but justified based on the pest and disease situation of Thailand. Nonetheless, these conditions would be reviewed after one year of trade.

28. In October 2001, Thailand indicated that despite numerous bilateral meetings, no agreement had been reached. Thailand requested that Australia seek to adjust its import restrictions to make them more commercially viable. Australia replied that a risk analysis for durian had first been finalized in 2000. The risk assessment indicated that other non-destructive methods of sampling could be substituted if efficacy data could be presented to show they provided an equivalent level of protection. However, no information had been received from Thailand that X-ray technology or irradiation could be equally effective. Australia was keen to finalize bilateral arrangements so that inspections of packing houses and orchards could begin in Thailand and import permits be issued.

29. In June 2002, Thailand reiterated concerns that Australia required cutting of the product for inspection purposes, and applied an excessive sample size. Malaysia and the Philippines supported the concerns expressed by Thailand on this issue. Australia indicated their willingness to consider alternatives to destructive sampling if their efficacy was shown. On the basis of joint trials, X-ray technology appeared promising.

30. In November 2002, Thailand recalled that it had been seeking access to Australia's market for durian since 1991. The matter had been pursued on a bilateral basis, but to date no agreement had been reached. Thailand was of the view that Australia should have concluded its consideration of the alternative method of rapid scan for inspection of import durian. The Philippines, on behalf of ASEAN, expressed systemic concerns and noted their interest in monitoring developments in this matter. Australia reiterated that the import conditions were subject to review after the first year of trade, and that other less destructive methods of inspection could be substituted for fruit cutting, if efficacy data showed that it could provide an equivalent level of quarantine protection from the key pests of concern. Australia was willing to continue to work with the Thai authorities to make progress on the assessment of non destructive inspection methods.

31. In April 2003, Thailand stated that there had been little progress on its concerns as the measures proposed by Australia were not commercially viable. Australia reported that alternative risk mitigation options such as pest free areas of production, pest free production sites and reproscan inspection methods were discussed by the joint Thai-Australian working group on agriculture on 3-7 March 2003. The Thai authorities were considering the pest free alternatives and had agreed to a joint collaborative trial of the reproscan inspection methods for the fruiting season in late April and June. A

longer term solution might be irradiation and Australia understood that Thailand could be interested in conducting trails as no efficacy data was currently available.

32. In June 2003, Thailand indicated that Australia's requirements for fresh durian imports were not consistent with the obligations of Article 5.6 of the SPS Agreement. Australia replied that it had specified the use of internationally accepted measures such as destructive fruit cutting which was used by many countries. Australia was prepared to consider alternative ways to address the quarantine risks associated with Thai durian fruit.

155. Import requirements for Netherlands Truss Tomatoes

Raised by:	European Communities
Supported by:	Indonesia, Philippines, Thailand
Dates raised:	April 2003 (G/SPS/R/29, paras. 25-27), June 2003 (G/SPS/R/30, paras. 64-65)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

33. The European Communities raised concerns that Australia was taking too long to conduct an import risk assessment for truss tomatoes due to reasons other than technical issues. The risk assessment was still incomplete after six years. In 1999 Australia presented a draft risk assessment on tomatoes without green parts despite the Netherlands' explicit request to export tomatoes on the truss. Truss tomatoes had been approved from New Zealand after New Zealand had approved Australian imports of the same product. On 26 March 2003, Biosecurity Australia unexpectedly indicated that there was no longer a need for a risk assessment for truss tomatoes. However, import conditions were still pending as a draft review of the quarantine requirements for the import of Dutch tomatoes needed to be circulated to stakeholders for comment. The European Communities felt that the time period necessary for Australia to conduct its import risk analysis was disproportionate to the risk and discriminated unjustifiably between WTO Members.

34. Australia explained that on 26 March, Biosecurity Australia announced that imports of truss tomatoes would be assessed as an extension of the technical policy recently developed for truss tomatoes from New Zealand – this would shorten the risk assessment process. The draft review would include draft import conditions and would be released to stakeholders with a 30-day comment period. The finalized review document would be available before the end of May 2003.

35. In June 2003, Australia reported that the draft import policy for truss tomatoes from the Netherlands had been issued and was publicly available and stakeholders invited to comment. A response to the Netherlands request for market access would follow soon. The European Communities expressed disappointment that the draft policy was still open for comments from stakeholders and therefore far from being finalized. The Philippines, speaking on behalf of Indonesia and Thailand, supported the views of the European Communities.

BAHRAIN

CONCERNS RELATED TO MEASURES MAINTAINED BY BAHRAIN

Food safety

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

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

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

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

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

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

BARBADOS

CONCERNS RELATED TO MEASURES MAINTAINED BY BARBADOS

Plant Health

195. Restrictions on citrus

Raised by:	Bolivarian Republic of Venezuela
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, para. 218)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

40. In October 2004, the Bolivarian Republic of Venezuela stated that in the last two years Barbados had applied restrictions to shipments of citrus from the Bolivarian Republic of Venezuela without demonstrating the existence of any pests or diseases. Several bilateral consultations had taken place but a solution had not been reached. Barbados was asked to explain why these restrictions on citrus from the Bolivarian Republic of Venezuela continued to be applied.

41. Barbados stated that the actions taken were consistent with their Plant Pest and Disease Import Control Act and Article 6 of the SPS Agreement. Barbados was willing to discuss the issue further bilaterally and within the framework of the Free Trade Agreement (FTA) negotiations between CARICOM and the Bolivarian Republic of Venezuela. At the last meeting both parties had agreed to allow SPS experts to visit and inspect each other's country and the Bolivarian Republic of Venezuela had offered to cover part of the costs. The CARICOM secretariat had since informed the Bolivarian Republic of Venezuela of the experts that had been nominated but no arrangements had been put in place for the visit.

BOLIVARIAN REPUBLIC OF VENEZUELA

CONCERNS RELATED TO MEASURES MAINTAINED BY BOLIVARIAN REPUBLIC OF VENEZUELA

Animal Health and Zoonoses

29. Measures related to avian influenza

Raised by:	United States
Supported by:	
Dates raised:	July 1997 (G/SPS/R/8, para. 25), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GEN/19, G/SPS/GEN/265
Solution:	US considered the trade concern unresolved
Status:	Not reported

42. In July 1997, the United States informed that non-pathogenic avian influenza had been detected in a few north-eastern US states. As a consequence, the Bolivarian Republic of Venezuela had banned the importation of US poultry and products. The United States contested the scientific basis for this measure and was concerned that it had not been notified.

43. In July 2001, the United States indicated that the Bolivarian Republic of Venezuela had acted in June 2000 to allow market access for US processed poultry (G/SPS/GEN/265). Venezuelan authorities had not responded to requests from the United States to pursue this matter bilaterally. The United States believed that the measures lacked scientific justification and considered this trade concern unresolved.

70. Import conditions for pork meat and products

Raised by:	European Communities
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, para. 67)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

44. The European Communities reported that the Bolivarian Republic of Venezuela had denied access to Danish pork meat and products without clearly indicating the import conditions or the relevant provisions. The EC representative urged Venezuelan authorities to notify the relevant measures, giving other Members a chance to comment.

Plant Health

93. Phytosanitary requirements for potatoes, garlic and onions

Raised by:	Argentina
Supported by:	Canada, United States
Dates raised:	March 2001 (G/SPS/R/21, paras. 26-28), July 2001 (G/SPS/R/22, para. 131), October 2001 (G/SPS/R/25, paras. 99-100), March 2002 (G/SPS/R/26, para. 43), June 2002 (G/SPS/R/27, paras. 54-55), April 2003 (G/SPS/R/29, paras. 53-54), June 2003 (S/SPS/R/30, paras. 36-38), October 2003 (G/SPS/R/31, paras. 23-24), March 2004 (G/SPS/R/33, paras. 63-64)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

45. In March 2001, Argentina provided information on the Bolivarian Republic of Venezuela's import restrictions on Argentine garlic because of Urocystis cepulae that had been imposed since 1997. According to the terms of the Andean Pact no quarantine measures had been adopted against Argentina. Regarding potatoes, Argentina had begun efforts to gain access to the Venezuelan market

in 1996, and had provided the necessary information for a risk assessment. Argentina expressed concern at the seeming lack of will on the part of the Bolivarian Republic of Venezuela to make progress on both issues. In addition, Argentina was concerned about a lack of coherence in the application of resolution 431 of the mandatory sanitary and phytosanitary standards of the Andean Community, which it would raise with the Andean Community. The Bolivarian Republic of Venezuela explained that there was no lack of will to move forward on these issues. Regarding garlic, the administrative process to set up the necessary protocols was ongoing. With respect to potatoes, the Bolivarian Republic of Venezuela believed that Argentine and Andean Community phytosanitary standards were not compatible. Colombia requested Argentina to submit its concerns to the Andean Community.

46. In July 2001, Argentina informed the Committee that bilateral meetings had been held, and although the problem had not been completely solved, the Bolivarian Republic of Venezuela had demonstrated a will to find a solution. In October 2001, Argentina requested a technical reply from the Bolivarian Republic of Venezuela to the questions raised during a recent bilateral meeting on the sanitary restrictions on potato imports, so as to facilitate the start of trading in this product. The Bolivarian Republic of Venezuela replied that it was seeking to prevent the introduction of pests that existed in Argentina but were exotic to the Bolivarian Republic of Venezuela. The sanitary services were evaluating the appropriateness of alternative methods, such as pest free areas, that would meet Argentina's legitimate trade concerns and the Bolivarian Republic of Venezuela's appropriate level of protection.

47. In March 2002, Argentina informed that bilateral negotiations with the Venezuelan health authorities had taken place, but in the protocols agreed for importation on potatoes, garlic and onion the matter of certification and inspection visits by Venezuelan officials was left outstanding. In view of the seasonal nature of these commodities, Argentina was concerned that if the inspection visits did not take place soon, no exports would be possible before 2003. In response, the Bolivarian Republic of Venezuela noted that they were awaiting a proposal from Argentina on a convenient date for the inspection visit.

48. In June 2002, Argentina stated that there had been no progress in resolving the problems arising from the Bolivarian Republic of Venezuela's restrictions on potatoes, garlic and onions. Argentina was waiting for the onsite visit which the Bolivarian Republic of Venezuela indicated was necessary before trade could resume. The Bolivarian Republic of Venezuela stated that some revisions to its requirements had been made, and it was now organizing a technical visit to examine the pest surveillance systems in Argentine producing areas, with the hope of finding a solution to the problem.

49. In April 2003, Argentina informed the Committee that Venezuelan technical experts had visited Argentina to verify its claims of freedom from onion smut (Urocystis cepulae). Discussions had entered the final phase and the Argentine authorities awaited the publication of the Venezuelan expert report which should allow the resolution of this issue. The Bolivarian Republic of Venezuela reported that bilateral consultations with Argentina had taken place prior to the Committee meeting and that the expert report should be available soon.

50. In June 2003, Argentina reported that it still had not received the final report and urged the Bolivarian Republic of Venezuela to inform Argentina about the results of the visit so that trade could be initiated. The Bolivarian Republic of Venezuela clarified that imports from Argentina were not prohibited but subject to certain requirements. Furthermore, the Bolivarian Republic of Venezuela had undertaken a risk assessment which provided the necessary justifications. The results of this assessment would be communicated to the Argentine health services as a part of the mutually agreed work plan.

51. In October 2003, Argentina noted that Venezuelan officials had visited Argentina in December 2002 to confirm the absence of onion smut. Argentina had received a report from the Bolivarian Republic of Venezuela just the previous week and hoped it meant the issue was resolved. The United States and Canada shared Argentina's concerns over delays or denial of import permits without scientific justifications. The Bolivarian Republic of Venezuela noted that the report had been sent to Argentina in March and an import protocol could now be completed.

52. In March 2004, Argentina informed the Committee that a technical document had been presented to the Bolivarian Republic of Venezuela during bilateral discussions held on 16 March 2004. Argentina and the Bolivarian Republic of Venezuela agreed to hold further discussions and hoped for a resolution on this issue. The Bolivarian Republic of Venezuela reported that it had received the documents requested from Argentina and hoped for an early resolution on the issue.

Other concerns

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

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

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

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

55. In June 2004, Canada recalled that it had raised concerns over the Bolivarian Republic of Venezuela's issuance of SPS-related permits in previous SPS Committee and Agriculture Committee meetings. The Bolivarian Republic of Venezuela's policies had restricted Canadian exports of meat,

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

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

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

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

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

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

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

62. The Bolivarian Republic of Venezuela took note of Canada's concerns and noted that bilateral negotiations were continuing.

63. In February 2006, Canada indicated that this issue was of long duration and frustration. Under the WTO rules, issuance of import permits was automatic unless there were underlying SPS concerns. Canadian table potatoes, onions and pork were being refused without any rationale. Unless

the Bolivarian Republic of Venezuela had identified legitimate SPS concerns, it should expeditiously issue import licenses for agricultural products from Canada on an automatic basis.

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

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

BRAZIL

CONCERNS RELATED TO MEASURES MAINTAINED BY BRAZIL

Food safety

5. Import requirements for wine

Raised by:	European Communities
Supported by:	
Dates raised:	May 1996 (G/SPS/R/5, para. 13), March 1997 (G/SPS/R/7, para. 23)
Relevant document(s):	G/SPS/N/BRA/13/Rev.1
Solution:	
Status:	Not reported

66. In May 1996, the European Communities expressed concern that proposed Brazilian import requirements for wine had not been notified. The European Communities was concerned that Brazil was apparently requiring that establishments in exporting countries be inspected and approved by Brazilian authorities. The European Communities considered its own requirements for wine production to be at least equivalent to those in Brazil with respect to the safety of the product for the consumer, and planned to present written comments to Brazil once an SPS notification had been made.

67. In March 1997, the European Communities questioned Brazil's measure on wine exports, notified as G/SPS/N/BRA/13/Rev.1 on 6 February 1997, stating that it was not clear what requirements producers faced. The European Communities questioned whether inspection requirements for individual establishments were based on science, and expressed concern over certification requirements for individual consignments rather than more general, generic types of certification. Brazil noted that the proposed legislation would not be adopted before 16 May 1997, and that the full text of the proposed legislation was available from the Brazilian Enquiry Point. Although Brazil insisted that its legislation was in conformity with the SPS Agreement, and not substantially different from legislation in place in several European countries, it was open for bilateral discussions on the subject.

Animal Health and Zoonoses

140. Imports of live ostriches

Raised by:	European Communities
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, para. 97)
Relevant document(s):	G/SPS/N/BRA/67
Solution:	
Status:	Not reported

68. The European Communities stated that they would bilaterally request clarification of the legal scope and scientific grounds for the measure. Brazil reported that the import restriction on live ostriches was due to the possible threats posed to the Brazilian poultry industry. The regulation that had been notified to the SPS Committee required that the OIE existing standards for inspection, supervision and quarantine requirements, both at the point of origin and the point of destiny, be followed. Brazil took note of the request from the European Communities to provide the necessary risk assessment for the non OIE-listed diseases and agreed to convey this request to the relevant authorities.

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

Raised by:	European Communities
Supported by:	
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 42-44)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

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

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

237. Lack of regionalization for Newcastle disease and restrictions on live birds

Raised by:	European Communities
Supported by:	
Dates raised:	March 2006 (G/SPS/R/40, paras. 30-33)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

71. The European Communities raised concerns regarding import restrictions applied to EC products related to the failure to recognize regionalization and the disease-free status of some EC member States. France had made several official requests for recognition of regionalization for Newcastle disease to the Brazilian authorities during 2005 and 2006, however no recognition of regionalization had been made by the Brazilian competent authorities.

72. The EC member States did not understand why Brazil refused to recognize regionalization for Newcastle disease while the European Communities recognized regionalization of Brazil for Newcastle disease and for other major animal diseases. A situation where a whole country was affected by a ban when only a limited part of its territory was affected by a disease did not fit the concept of regionalization promoted by the SPS Agreement. Trade had to be allowed from other areas or regions within a country where the disease did not exist. The European Communities urged Brazil to respect Article 6 of the SPS Agreement, to follow the international rules set up by the OIE and to respond positively to legitimate requests for the application of the principle of regionalization for EC member States.

73. Brazil reported that due to an outbreak of Newcastle disease in the French department of the Loire Atlantique, reported to the OIE on 27 July 2005, on 5 August 2005 Brazil suspended imports of live birds and avian genetic material, exclusively from that French department. Another case was notified to the OIE on 21 October 2005 in the Port de Calais department, whereupon Brazil extended the import restrictions to the whole of the French territory. A further outbreak of Newcastle disease was subsequently notified in another French department on 18 November 2005. French health authorities denied any epidemiological connection between the outbreaks and reported that the outbreaks had been related to contamination by migrating birds. On 25 February 2006, a case of highly pathogenic (AI) was identified in France, which once again was attributed to contamination by migrating birds.

74. In the light of all the outbreaks attributed to migrating birds, Brazil decided to monitor the situation in France with regard to bird diseases, in order to protect its own population. Brazil wished to maintain good trade relations with France and the European Communities, and applied fully the provisions of Article 6 on regionalization. However, the outbreaks of Newcastle disease, the available information and the recent occurrence of AI were all relevant. Brazil was the world's largest exporter of chicken, and needed to maintain its status as free of AI.

Plant Health

46. Import prohibition of coconut palms and related products

Raised by:	Philippines
Supported by:	Sri Lanka, Malaysia
Dates raised:	June 1998 (G/SPS/R/11, paras. 25-26), September 1998 (G/SPS/R/12 and Corr.1, paras. 5-6)
Relevant document(s):	G/SPS/N/BRA/1
Solution:	
Status:	Not reported

75. In June 1998, the Philippines submitted a series of detailed questions to Brazil regarding its import prohibition of coconut palms and related products. Brazil answered that the measure was in place to prevent the spread of quarantine pests. Brazil continued to import coconut palms and related products from pest-free countries, if shipments were accompanied by a phytosanitary certificate, but only one country had applied for pest-free status. Brazil stressed that its measure was in conformity with the SPS Agreement and the text of the IPPC, and that the risk assessment methodology used had been notified.

76. In September 1998, the Philippines reported that it had received no clear answers from Brazil, and reiterated its questions. Brazil specified which diseases it was concerned about. Its phytosanitary requirements had been extended to desiccated coconut, as there was a risk of transmission of pests or exotic pathogens. Nonetheless, Brazil was prepared to discuss proposals for risk evaluation and recognition of pest-free areas.

141. Pest risk assessments for imports of plant origin

Raised by:	Canada
Supported by:	Australia, New Zealand, Peru, United States, European Communities
Dates raised:	November 2002 (G/SPS/R/28 , paras. 77-79)
Relevant document(s):	G/SPS/N/BRA/65
Solution:	
Status:	Not reported

77. Canada referred to Brazil's legislative requirement for pest risk assessments for all vegetable products imported into Brazil, published on 28 March 2002. While Canada did not challenge the right of Brazil to conduct pest risk analysis for imported commodities, they considered the measure as unduly restrictive of trade, in particular given that imports would be suspended on 27 November 2002, pending completion of the pest risk assessments. Canada had exported a number of products covered by this measure for many years without any particular concern, and requested Brazil to allow existing trade from well known sources to continue while the pest risk assessments were being completed. In this regard, Canada was prepared to provide the information required to facilitate the early completion of any risk assessments concerning products from Canada.

78. The United States did not believe that it was necessary or justifiable to ban or temporarily halt the importation of products while PRAs were being conducted unless there was a specific pest risk

problem that would required such drastic action. Australia, the European Communities, New Zealand and Peru shared the concerns expressed by Canada and the United States and requested Brazil to withdraw the application of the measure.

79. Brazil stated that one key concern was that many PRAs were open-ended and the studies never came to completion. Brazil was reassessing the matter and considering alternatives to the PRAs, such as the possibility of extending the time-frame for implementation of the measure in the case of ongoing studies, including cases where documents had already been forwarded to Brazil. Brazil requested trading partners to identify their concerns in writing, so that responses could be provided by the competent authorities.

CANADA

CONCERNS RELATED TO MEASURES MAINTAINED BY CANADA

Food safety

6. Importation of cheese

Raised by:	European Communities
Supported by:	Switzerland
Dates raised:	May 1996 (G/SPS/R/5, para. 14)
Relevant document(s):	G/SPS/N/CAN/8
Solution:	
Status:	Not reported

80. The European Communities raised concerns with a proposed Canadian requirement that cheese be pasteurized or produced from pasteurized milk. The European Communities considered that its measures, including production requirements, safe and correct sourcing and subsequent supervision in the various production stages from farm to consumer, provided at least equivalent guarantees in terms of food safety. The European Communities observed that a number of Members maintained restrictions on imports of raw milk cheeses from the European Communities which were not justifiable on health grounds. Canada noted that on request it would provide scientific documentation in support of the proposal, and that an expert advisory committee had been appointed to examine the matter.

Animal Health and Zoonoses

15. Zoosanitary import policies pertaining to BSE

Raised by:	European Communities
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, paras. 24-25)
Relevant document(s):	G/SPS/N/CAN/18
Solution:	
Status:	Not reported

81. The European Communities argued that the Canadian policy went beyond what could be scientifically justified, and was furthermore not in conformity with the OIE Code. The European Communities noted that (i) no distinction was made between high and low incidence countries; (ii) there were provisions for whole-herd slaughter and slaughter of mother as well as of progeny despite BSE not being considered as a herd disease and unfinalized investigations on maternal transmission; and, (iii) the Canadian policy required BSE to have been notifiable for six years under an active surveillance programme and that imports would be allowed only after six years of absence of the disease. Also, the proposed policy implied that Canada would not accept meat from any country which had imported meat and bone meal from a country which had a case of BSE. Under these conditions only one EC member State would qualify to export meat to Canada. Canada explained that while the BSE policy was already in force, some changes were proposed. It was on these draft changes that comments were being sought. The time for comments would be extended.

84. Import restrictions affecting BSE-free countries – Maintained by Argentina, Australia, Canada, Republic of Korea, New Zealand, United States [See Item 84, page 1]

88. Import restrictions due to FMD – Maintained by Canada and United States

Raised by:	Hungary
Supported by:	
Dates raised:	March 2001 (G/SPS/R/21, paras. 90-91), July 2001 (G/SPS/R/22, para. 133)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

82. In March 2001, Hungary expressed concern about reported US and Canadian import bans on Hungarian meat products in reaction to incidences of FMD in France. Canada and the United States clarified that they had not placed any restrictions on the importation of products from Hungary. In July 2001, Hungary reiterated its concern regarding US measures on meat and other animal products that were in force since May 2000. Hungary referred to G/SPS/GEN/266, which listed Hungary as a country free of FMD and rinderpest. The United States offered to work with the appropriate officials to explain the situation.

Plant Health

229. Import restrictions on Enoki mushrooms from Chinese Taipei

Raised by:	Taipei, Chinese
Supported by:	
Dates raised:	October 2005 (G/SPS/R/39, paras. 36-38), February 2006 (G/SPS/R/39, paras. 36-38)

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

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

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

CHILE

CONCERNS RELATED TO MEASURES MAINTAINED BY CHILE

Food safety

9. Zero-tolerance for salmonella in imported poultry products – Maintained by Chile, Czech Republic, El Salvador, Honduras and Slovak Republic

Raised by:	United States
Supported by:	
Dates raised:	October 1996 (G/SPS/R/6, paras. 18-25), March 1997 (G/SPS/R/7, paras. 52-53), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GN/3, G/SPS/N/CZE/8, G/SPS/GEN/265
Solution:	
Status:	Not reported

85. In October 1996, the United States indicated that a number of Members discriminated between standards for control of salmonella in domestic versus imported poultry products. Chile, the Czech Republic, El Salvador, Slovakia and Honduras applied so-called zero-tolerance standards, which was a misleading name since none of these Members appeared to have eradication or surveillance systems in place to establish non-existence of salmonella in domestic products.

86. The Slovak Republic responded that it did not apply a zero-tolerance standard, but rather required ante- and post-mortem treatment of slaughter poultry, for domestic and imported poultry meat. The Czech Republic clarified that its regulations required negative results on salmonella tests in poultry holdings and slaughterhouses. Czech requirements were laid out in the Draft Law on Foodstuff and Tobacco Products to be adopted in 1997, notified as G/SPS/N/CZE/8. No assurances had been received from the United States that these requirements would be met. The Czech Republic suggested bilateral consultations between veterinary experts. The representatives of Honduras and El Salvador indicated that they would inform their authorities of the statement made by the United States.

87. Chile observed that bilateral consultations on salmonella had started in 1992. The US concern was probably due to a misunderstanding of Chile's sanitary requirements, which required tests to determine the level of salmonella. The result was compared with the level of prevalence in the exporting country, which was part of Chile's risk assessment procedure. Chile was aware that the United States had difficulties in complying with this requirement given the high level of prevalence of salmonella domestically. Given the US situation, the Chilean government was prepared to show a certain flexibility and would consider imports of irradiated poultry from the United States as a possible alternative.

88. In March 1997, the United States reiterated its concerns. In particular, Chile had not substantiated its claim that salmonella was less prevalent in domestic poultry stocks compared to the imported product, and the Czech Republic continued to maintain a zero-tolerance policy. Furthermore, the United States was interested to know when legislation would be implemented to harmonize requirements for poultry meat imports in the Central American Common market. In response, Chile recalled its arguments made at the previous meeting, and remained open to further discussion with the United States. In February 2001, the Czech Republic reported that its new Law on Foodstuff and Tobacco Products had been adopted (decree 298/1997), and than it had been in contact with the United States since then.

89. In July 2001, the United States reported that it was still discussing the matter with Chile (G/SPS/GEN/265).

CHINA

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINA

Food safety

114. Food safety regulations affecting agricultural products produced from modern biotechnology

Raised by:	United States
Supported by:	Argentina, Australia, Canada
Dates raised:	March 2002 (G/SPS/R/26, paras. 12-14), June 2002 (G/SPS/R/27, paras. 21-23), November 2002 (G/SPS/R/28, paras. 93-94)
Relevant document(s):	G/SPS/N/CHN/10
Solution:	
Status:	Not reported

90. In March 2002, the United States had expressed serious concerns about China's Ministry of Agriculture implementing regulations for the management of agricultural biotechnology products. These regulations, originally published on 6 June 2001, were released without warning on 7 January 2002. The regulations, which required pre-market approval and mandatory labelling of biotech products and affected GMO imports, were scheduled to go into effect on 20 March 2002. The United States noted that China had not notified these regulations to the WTO, precluding any chance for comment by interested WTO Members. Furthermore, certain aspects of the new regulations appeared to be inconsistent with WTO rules, and established different approval procedures for imported and domestic products. The United States welcomed the interim measures issued on 11 March 2002, which streamlined measures for the importation of biotech agricultural products through 20 December 2002. Canada, Argentina and Australia associated themselves with the concerns expressed by the United States.

91. China explained that public anxiety country over the safety of GM agricultural products and foods had led the Chinese Government to issue regulatory rules in May 2001. As China was not at that time a WTO Member, it had no obligation to make a notification. However, China intended to notify the three implementing measures issued in January 2002t once the English versions had been finalised. China reported that bilateral consultations had been held with the major parties concerned and that interim measures had been introduced to avoid disruption of normal trade.

92. In June 2002, the United States reported that China's Ministry of Health had issued a decree on biotech safety and labelling on 8 April 2002. The decree would take effect on 8 July, but the Ministry of Health had not issued implementing regulations. Additionally, the decree had not been notified. The United States believed that mandatory labelling for biotech products that were substantially equivalent to their conventional counterparts had no scientific justification. Under such circumstances, labelling wrongly implied a possible risk to the consumer. US companies exported to China over US$ 1 billion/year of biotechnology products, including soybeans and corn, and processed products. The United States requested an interim period for implementation of the decree, to allow sufficient time for compliance by exporters. Canada and Argentina shared the concerns expressed by the United States. China explained that the failure to notify the measure in advance had been inadvertent, and invited Members to send comments to its Enquiry Point or directly to the Ministry of Health. China also expressed an interest in holding bilateral consultations with interested WTO Members.

93. In November 2002, the United States and Argentina expressed concern regarding the implementation dates proposed for the April regulations and requested China to consider ways to reduce the possible trade effects. Argentina also reported that it had held bilateral consultations with China on this matter. China clarified that notification of the draft regulation had been submitted just prior to the last SPS Committee meeting. China's Ministry of Health had agreed to extend the interim period for one year.

142. Zero tolerance for e-coli

Raised by:	United States
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 87-88)
Relevant document(s):	G/TBT/N/CHN/6
Solution:	
Status:	Not reported

94. The United States recognized the need for China to reduce bacterial contamination on raw meats and poultry products to the lowest achievable level but had two concerns related to this notification. The United States believed that the complete elimination of enteropathogenic bacteria in raw meats and poultry products was not achievable using existing technologies and practices and they were interested in more information related to the risk assessment that had been used as the basis for this zero tolerance. Experience in the United States had shown that carcasses of normal healthy birds and animals could still contain a variety of bacteria, including those of concern to China, but proper preparation and handling could eliminate health concerns. As the basis of China's notification appeared to be food safety and human health concerns, the United States requested that China also notify this proposed regulation under the SPS Agreement. China agreed to consult with the standardizing agency and take the necessary steps.

Animal Health and Zoonoses

128. Import requirements for cosmetics

Raised by:	European Communities
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras. 13-14), November 2002 (G/SPS/R/28, paras. 50-51), June 2003 (G/SPS/R/30, paras. 39-40)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

95. The European Communities noted that China had imposed import restrictions on cosmetics beginning in March 2002. The new regulations prohibited cosmetics containing certain ingredients of animal origin from 18 countries having officially declared the existence of BSE. Cosmetics from these 18 countries required certification that they did not contain specified products of bovine or ovine origin. According to China's notification, the justification of the measure was to prevent introducing BSE into China. The European Communities considered that the measures were in contradiction to the SPS Agreement. China had notified its measures as emergency measures, whereas BSE had been present in those countries for many years and there was no new scientific evidence indicating a particular risk from cosmetics. In addition, the measures had no scientific basis and went far beyond the OIE standard on BSE and were disproportionate compared to the risks. The measures were also discriminatory, because they did not apply in the same manner to all countries where identical sanitary conditions prevailed. The European Communities requested that China make available the scientific justification and the risk assessment underlying the measure.

96. China indicated that it only prohibited the importation of cosmetics derived from bovine or ovine brains, placenta, nerves, etc. from BSE-infected countries and regions, in accordance with the OIE and WHO recommendations. China had notified its measure and requested exporting countries to provide the names and signatures of the authorities responsible for issuing the certificates ensuring that the cosmetics met the Chinese requirements. Several EC member States had proceeded accordingly and China had recognized, or was in the process of recognizing, the competent certifying authorities of those member States.

97. In November 2002, the European Communities reported good progress in resolving this issue. Extensive bilateral trade in cosmetics between China and the European Communities had taken place before China introduced the new provisions, and in particular the protective measures related to BSE.

EC experts on BSE-related risk assessment were to visit Beijing, and both countries were hopeful that the discussions would lead to a resolution of the problem.

98. In June 2003, the European Communities reported that further progress was made as China had presented a list of prohibited products. China responded that it was willing to review its regulations and welcomed continued dialogue.

Plant Health

143. Regulation on wood packaging material

Raised by:	European Communities
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 38-39), June 2003 (G/SPS/R/30, paras. 39-40)
Relevant document(s):	G/SPS/N/CHN/14
Solution:	
Status:	Not reported

99. The European Communities stated that a number of aspects of the Chinese regulation on wood packaging material, notified as G/SPS/N/CHN/14, caused serious problems. There were important discrepancies between the Chinese legislation and relevant guidelines from the IPPC, in particular ISPM 15. The European Communities had gone to considerable lengths to address the concerns of the Chinese authorities, and a lot of progress had been made in particular following a visit from a number of experts to China. The European Communities encouraged China to come into conformity with the IPPC standard as expeditiously as possible, and to work towards resolving the issue.

100. China reported that during 2001 and 2002, large numbers of pests were regularly detected by the inspection and quarantine authorities of China in wood packaging material from the European Communities. China had notified this situation to the European Communities repeatedly, and finally decided to take emergency measures on 19 April 2002 in order to prevent the introduction of dangerous wood pests, and to ensure the protection of the environment, forestry and tourism resources in the country. The notification and the risk analysis report were sent to the European Communities for comments, to which China replied in detail on 17 June 2002. Following that date no further comments had been received from the European Communities; the measure had been imposed on 28 June 2002, and notified to the WTO. The measure was based on scientific principles and on a risk analysis in line with the relevant provisions of the SPS Agreement.

101. In June 2003, the European Communities reported that they had now adopted the IPPC standard and China had promised to do the same. China reaffirmed that it was committed to following the IPPC standard.

Other concerns

184. Lack of transparency for certain SPS measures

Raised by:	United States
Supported by:	
Dates raised:	March 2004 (G/SPS/R/33, paras. 32-33)
Relevant document(s):	G/SPS/N/CHN/22
Solution:	
Status:	Not reported

102. The United States expressed concerns over China's failure to notify nearly 60 regulations covering food, forestry and fishery products issued since 2002. Burdensome certification requirements for fresh, chilled and frozen aquatic products were imposed by AQSIQ Decree 31, which entered into force on 1 July 2003, but were not notified to the WTO. Despite holding bilateral consultations with China, no progress had been made on this issue. The United States urged China to comply with its SPS obligations and to notify new regulations so that Members had an opportunity to comment on them.

103. China stressed that it had notified 213 SPS measures since its accession and was committed in fulfilling its transparency obligations. The comment period was calculated from the day the Secretariat circulated the notification. There was no obligation to notify AQSIQ Decree 31 as it was an operational rule of a corresponding regulation that had already been notified to the WTO, and imposed no new technical requirements. However, in the interest of enhanced transparency, Decree 31 had been notified in August 2003 (G/SPS/N/CHN/22).

COSTA RICA

CONCERNS RELATED TO MEASURES MAINTAINED BY COSTA RICA

Plant Health

230. Phytosanitary requirements on fresh oranges

Raised by:	Nicaragua
Supported by:	
Dates raised:	October 2005/February 2006 (G/SPS/R/39, paras. 90-92)
Relevant document(s):	G/SPS/N/CRI/43
Solution:	
Status:	Not reported

104. In October 2005, Nicaragua reported that in mid-2005 competent authorities from Nicaragua and Costa Rica had put in place a bi-national technical team responsible for the prevention and eradication of Citrus leprosis, as well as the maintenance of citrus leprosis-free areas. The team had confirmed the presence of the Citrus leprosis in the south of Costa Rica and in the north of Nicaragua, as well as the Citrus leprosis-free status of south Nicaragua, the region containing commercial citrus fruits groves for export. The risk analysis by Costa Rica indicated mature fruits were not the pathway

for the spread of the disease, hence imported fruits, which were mature, did not present any phytosanitary risk. The adoption by Costa Rica of an emergency prohibition on imports from Nicaragua was not justified and more trade restrictive than necessary to maintain Costa Rica's appropriate phytosanitary level of protection.

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

CROATIA

CONCERNS RELATED TO MEASURES MAINTAINED BY CROATIA

Animal Health and Zoonoses

158. Restrictions on pork imports

Raised by:	Slovenia
Supported by:	
Dates raised:	April 2003 (G/SPS/R/29, paras. 203-204)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

106. Slovenia reported that decrees issued in March by the Croatian Ministry of Agriculture shortened the validity dates on veterinary import permits from six to three months. The reason given for this was market disturbances due to oversupply of meat in the Croatian market. The measure was not notified to the WTO and was in breach of the WTO Agreements on SPS, Agriculture and Import Licensing Procedures.

107. Croatia stated that it had not adopted or implemented any measures to restrict imports of pork meat and products. As of January, Croatia was developing a computerized integrated system for veterinary control of border crossings. This required adjustments to the procedures for application and issuance of veterinary approvals. An important element of the new simplified system was that the period for issuance of approvals had been shortened from 30 or 60 days to only 15 days. Bilateral discussions between competent authorities would clarify the situation.

166. Import measures on live animals and meat products

Raised by:	Hungary
Supported by:	European Communities
Dates raised:	June 2003 (G/SPS/R/30, paras. 28-31), October 2003 (G/SPS/R/31, paras. 132-134)
Relevant document(s):	G/SPS/GEN/416, WT/DS297
Solution:	Consultations requested under dispute settlement procedure in July 2003
Status:	Not reported

108. Hungary expressed concern with measures taken by Croatia to ban imports of live animals and meat products. The ban, supposedly to provide protection against BSE, entered into force with immediate effect and was never notified. The ban applied to all meat products, including fish and poultry, as well as live animals. These could only be imported if the exporting country certified that no animal protein had been used as feed. As there was no scientific justification for the measures and since it did not apply to domestic producers, Hungary considered the ban a disguised restriction on international trade. The European Communities expressed support for Hungary's concerns. The European Communities had requested information from Croatia but did not receive any reply.

109. Croatia maintained that the measure was imposed to keep its present status as a BSE-free area in order to protect its exports of meat products. The measures taken were in accordance with established international rules and with the measures taken by the European Communities. Countries which had provided the necessary information had been exempted from the ban, e.g., Bulgaria and Romania. Croatia requested Hungary to submit the necessary information.

110. In October 2003, Croatia reported that meetings between veterinarians from Hungary and Croatia were held to resolve the issue. The European Communities noted that the statement made by Croatia at the June meeting and circulated in document G/SPS/GEN/416, that its measures were consistent with EC legislation was inaccurate. EC legislation did not prohibit imports.

CUBA

CONCERNS RELATED TO MEASURES MAINTAINED BY CUBA

Plant Health

105. Restrictions on apples and pears

Raised by:	Argentina
Supported by:	
Dates raised:	October 2001 (G/SPS/R/25, para. 101)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

111. Argentina expressed concerns that Cuba did not accept cold treatment as a quarantine treatment for apples and pears. Bilateral consultations had been held, and Argentina expected further information from Cuba on this issue.

CZECH REPUBLIC

CONCERNS RELATED TO MEASURES MAINTAINED BY CZECH REPUBLIC

Food safety

9. Zero-tolerance for salmonella in imported poultry products – Maintained by Chile, Czech Republic, El Salvador, Honduras and Slovak Republic **[See Item 9, page 22]**

DOMINICAN REPUBLIC

CONCERNS RELATED TO MEASURES MAINTAINED BY DOMINICAN REPUBLIC

Plant Health

239. Tolerance levels for soil content on potato tubers

Raised by:	Canada
Supported by:	
Dates raised:	June 2006 (G/SPS/R/42, paras. 17-18), October 2006 (G/SPS/R/43, paras. 33-34)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

112. In June 2006, Canada stated that it had been negatively affected by the unacceptably low tolerance levels set by the Dominican Republic for soil content on potato tubers which were ten times lower than those indicated in the international standard. This measure seemed to target Canada as other exporters were not subject to the same requirement, which was impossible to meet and was not based on a risk assessment. Despite numerous efforts at the bilateral level and an invitation extended to the Dominican Republic to visit the potato production sites, the issue remained unresolved. Canada urged the Dominican Republic to amend its tolerance level to bring it in line with international practice.

113. The Dominican Republic explained that the measure was not discriminatory as it applied to all countries exporting to the Dominican Republic, where there was a risk of introduction of nematodes. An official communication had been sent to Canada in this regard and they hoped to resolve the issue promptly.

114. In October 2006, Canada reported that it had held bilateral meetings to discuss Canada's concerns with the Dominican Republic requirements for Canadian potato. In September 2006, the Dominican Republic sent representatives to Canada to get first hand information on Canadian potato production, distribution and transportation systems and to take samples for testing. At the conclusion of the visit, Canada thought they had reached an agreement on the conditions for Canadian potato to be exporter to the Dominican Republic. Canada reiterated that there had been no agreement on acceptable soil tolerance level as a result of miscommunication of the results of the September meeting and indicated their interest to continue the technical discussion on the issue while hoping that the issue could be resolved on the basis of acceptable international practices for soil tolerance.

115. The Dominican Republic observed that following the recommendations of a multidisciplinary team of experts working on potato certification and working on phytosanitary measures, they had agreed on a soil tolerance level of 1g of soil per kg of potato for consumption and 5g of soil per kg of seed potato. Canadian and Dominican Republic experts were right and agreed that over the next 2 years the situation was to be carefully monitor and possibly could agreed to increase to the soil tolerance level to 85g of soil per kg of potato. However, the Dominican Republic agreed with Canada that there had been miscommunication and expressed their desire to continue monitoring the situation while hoping that an understanding could be reached at a bilateral level.

EGYPT

CONCERNS RELATED TO MEASURES MAINTAINED BY EGYPT

Food safety

77. Restrictions on canned tuna

Raised by:	Thailand
Supported by:	
Dates raised:	June 2000 (G/SPS/R/19, paras. 103-104)
Relevant document(s):	G/SPS/GEN/203, WT/DS205
Solution:	Formal consultations requested by Thailand September 2000
Status:	Not reported

116. Thailand, acknowledging Egypt's decision to restrict food imports containing genetically modified organisms (GMOs), insisted that Thai canned tuna did not contain soybean oil produced from genetically modified plants. Thailand noted that it was not possible to identify the origin of soybean oil since the final processing stages destroyed genetic material. Thailand considered the restrictions on Thai canned tuna to be discriminatory, and asked the Egyptian Government to lift the restrictions as soon as possible. Egypt took note of Thailand's concerns and agreed to report back to the Committee in due course.

EL SALVADOR

CONCERNS RELATED TO MEASURES MAINTAINED BY EL SALVADOR

Food safety

9. Zero-tolerance for salmonella in imported poultry products – Maintained by Chile, Czech Republic, El Salvador, Honduras and Slovak Republic [See Item 9, page 22]

EUROPEAN COMMUNITIES

CONCERNS RELATED TO MEASURES MAINTAINED BY EUROPEAN COMMUNITIES

Food safety

40. Trade restrictions in response to cholera

Raised by:	Tanzania
Supported by:	
Dates raised:	March 1998 (G/SPS/R/10, paras. 56-57), June 1998 (G/SPS/R/11, paras. 96-99)
Relevant document(s):	G/SPS/N/EEC/54
Solution:	Partially resolved: Measures revised
Status:	Partially resolved

117. In March 1998, the European Communities informed the Committee that it had taken safeguard measures with respect to imports of fruit, vegetables and fish products in light of a cholera outbreak in Tanzania, Kenya, Uganda and Mozambique. The inspection procedures in these countries had shown deficiencies, but the European Communities planned to consult with them to find arrangements by which they could put in force proper hygiene requirements. EC member States were trying to develop a joint cholera policy based on risk assessment. The WHO observer did not consider the import ban necessary, especially on fish products which were not consumed in raw form in Europe. He drew attention to the WHO Guidance on Foundation of National Policy and Control of Cholera, and particularly the conclusion in Chapter IX that: "Although there is a theoretical risk of Cholera transmission associated with some food commodities moving in international trade, this has rarely proved significant and authorities should seek means of dealing with it other than by applying an embargo on importation".

118. In June 1998, Tanzania reported that the European Communities continued to prohibit the importation of fresh, frozen and processed fishery products from the four African countries, although tests had not found the bacteria concerned. Tanzania stressed that the EC ban was having severe economic effects on the Tanzanian economy, and that according to the SPS Agreement, Members should help developing countries comply with their SPS measures. The European Communities responded that it was now satisfied the necessary guarantees were in place, and that a new measure restoring trade with the four African countries would probably enter into force on 1 July 1998.

47. Measure on establishments operating in the animal feed sector

Raised by:	United States
Supported by:	Argentina
Dates raised:	June 1998 (G/SPS/R/11, paras. 50-56), September 1998 (G/SPS/R/12, paras. 35-36), July 2001 (G/SPS/R/25, para. 127)
Relevant document(s):	G/SPS/N/EEC/58, G/SPS/GEN/88, G/SPS/GEN/265
Solution:	
Status:	Not reported

119. In June 1998, the United States raised its concerns with regard to an EC measure which set conditions and arrangements for approving and registering establishments and intermediaries operating in the animal feed sector. The United States sought clarification regarding criteria used, justification and coverage of the measure and the procedures involved, and asked for an update on its implementation status.

120. The European Communities replied that it was putting in place the legislative framework for the establishment of a single market in regard to animal, plant and consumer health. It was establishing harmonized standards so that products could circulate freely within the Community. The European Communities provided an explanation of the criteria used and risks addressed by the framework, and clarified that it applied only to feedingstuffs for farm animals, not to pet food. The European Communities clarified that by the end of 1998, EC member States must provide the Commission with a list of establishments considered eligible, which could be modified later on. Establishments would be inspected by the EC Commission. The European Communities considered its registration requirements to be flexible and not very onerous. Argentina requested a written copy of the EC statement.

121. In September 1998, the United States reported it was encouraged by the EC willingness to consult on this draft directive with a view to safeguarding public and animal health while minimizing trade disruptions. The European Communities noted that the new regime was similar to the previous one, but was more flexible in that on-the-spot inspection in third countries was optional. The European Communities assured the United States that prompt answers would be provided to all questions raised.

122. In July 2001, the United States reported that it did not require or support registration of animal feed establishments and considered the issue to still be unresolved (G/SPS/GEN/265).

52. Measures on food treated with ionizing radiation

Raised by:	United States
Supported by:	
Dates raised:	September 1998 (G/SPS/R/12, paras. 37-38), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/N/EEC/61, G/SPS/GEN/265
Solution:	
Status:	Not reported

123. In September 1998, the United States sought clarification on the EC measure on food and food ingredients treated with ionizing radiation. The United States was taking similar steps towards recognizing that this technology could play a role in ensuring the wholesomeness and safety of food, and had sent official comments to the European Communities. However, the United States emphasized that the list of products provided in an annex to the EC directive should be expanded to cover other food products such as pork, beef, poultry, fruits and vegetables. The United States also requested explanation of how the approval process for treatment facilities worked. The European Communities indicated that the US suggestions would be forwarded to the competent EC services.

124. In a document introduced in July 2001, the United States reported that two EC directives on food irradiation had been adopted in 1999 (G/SPS/GEN/265). So far, only dried aromatic herbs, spices and vegetable seasonings had been included in the positive list. One of the directives required

that the Commission draft a proposal by 31 December 2000. The Commission had published a consultation paper, describing a possible strategy for expanding the positive list. After considering comments, the Commission would submit the paper to the Council and the European Parliament. The United Stated had sent comments on the consultation paper in January 2001, requesting that all foods which received a favourable opinion from the Scientific Committee for Food be included in the positive list. The United States had also requested information on how additional foods could be added to the positive list.

72. Measures regarding canned tuna in oil – Maintained by Belgium

Raised by:	Philippines
Supported by:	
Dates raised:	November 1999 (G/SPS/R/17, paras. 87-88), March 2002 (G/SPS/R/26, para. 44)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

125. The Philippines expressed concern regarding a Belgian decision to withdraw from sale Philippine canned tuna in oil based on allegations of contamination with biphenol-A-diglycydyl and biphenol-F-diglycydyl. The European Communities responded that some products had to be withdrawn from sale and offered to pursue the matter on a bilateral basis with the Philippines. In bilateral discussions, Belgium transmitted, for consideration by the Philippines, information that in Belgium's view provided a basis for its action to withdraw the subject products from sale. The Philippines reiterated its objection to this action, which it considered was taken without sufficient legal basis.

89. Import restrictions on soy sauce

Raised by:	Thailand
Supported by:	Korea, Republic of
Dates raised:	March 2001 (G/SPS/R/21, paras. 36-39), July 2001 (G/SPS/R/22, paras. 11-14), October 2001 (G/SPS/R/25, para. 106), March 2002 (G/SPS/R/26, paras. 134-136), June 2002 (G/SPS/R/27, para. 132)
Relevant document(s):	G/SPS/N/EEC/100
Solution:	
Status:	Not reported

126. In March 2001, Thailand, on behalf of ASEAN, raised concerns with an EC regulation which set new maximum levels for lead, cadmium, mercury and 3-MPCD in foodstuffs. ASEAN believed that the EC maximum level of 3-MCPD in soy sauce was too low to be practicable, and constituted an unnecessary barrier to trade. ASEAN asked the European Communities to provide technical information in order to reach a mutually satisfactory solution. Korea asked to be informed about the outcome of bilateral consultations between the European Communities and Thailand. The European Communities stated that several of its member States had detected high levels of 3-MCPD in samples

of soy sauce. Recent toxicological studies had indicated that the substance acted as a non-genotoxic carcinogen in vivo. The European Communities believed that maximum levels should be set to encourage good manufacturing practices and to protect the health of consumers. A proposed Commission Regulation set such limits, and was currently under examination. Thailand had been informed of the 3-MCPD levels reported in soy sauce from one manufacturer, but had not responded.

127. In July 2001, the European Communities informed the Committee that the Scientific Committee of Food had recently revised its opinion on 3-MCPD in light of new toxicological information, concluding that 3-MCPD was not genotoxic in humans. A tolerable daily intake had been set at 2 µg per kg of body weight. A maximum level for 3-MCPD, to take effect in April 2002, had been set at 0.02 mg/kg for both hydrolized vegetable protein and soy sauce. However, in light of the new scientific opinion, the European Communities would consider whether the current maximum level remained appropriate. The United States indicated that the Joint FAO/WHO Expert Committee on Food Additives (JECFA) had re-evaluated the safety of chlorinated propanols, and concluded that a person should not consume more than 120 mg/day of these contaminants. The Codex representative added that the need to establish maximum levels for these contaminants would be considered by JECFA in March 2002.

128. In October 2001, Thailand indicated that it had taken measures to establish maximum 3-MCPD limits and to modify production processes to lower rates of contamination; its industry expected to be able to meet a 1 mg/kg limit within one year. JECFA had set a provisional maximum daily threshold level at 2 micrograms/kg of body weight per day. Based on this limit for a person of 50 kg bodyweight, a safe daily consumption of up to 10 g should be allowable. However, Thailand noted that the limits applied by Members differed widely.

129. In March 2002, the European Communities reported that the Scientific Committee had re-evaluated the potential toxicity of 3-MCPD, and had concluded that the risks were not as high as initially believed. A full evaluation of the toxicity of 3-MCPD was underway, pending receipt of additional information; in particular regarding exposure levels. The results of this study were expected for July 2002, at which time the EC requirement would be re-examined in light of the results of this study as well as of the JECFA review.

130. The representative of Codex noted that the Codex Committee on Food Additives had the previous week discussed the subject of chloropropanols, substances which could occur in hydrolized vegetable proteins and soy sauces. JECFA had determined that the level of chloropropanols could be controlled if the levels of 3-MCPD were limited, and had developed recommended daily intake levels. On this basis, the Food Additives committee was proceeding to develop maximum residue levels for 3-MCPD for commodities of major trade interest.

131. In June 2002, the European Communities confirmed that 3-MCPD had been re-evaluated and found to be carcinogenic but not genotoxic, so the ALARA ("as low as reasonably achieveable") principle would no longer be applied. However, the European Communities was seeking the necessary information on exposure of consumers to 3-MCPD and other chloropropanols so that the Scientific Committee could undertake a risk assessment.

94. Directive 2000/42 on pesticide residues

Raised by:	Côte d'Ivoire
Supported by:	
Dates raised:	July 2001 (G/SPS/R/22, paras. 136-137)

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

132. Côte d'Ivoire expressed concern regarding new EC maximum residue levels (MRLs) for pesticides in fruits and vegetables, which would affect Côte d'Ivoire's exports of pineapples, mangoes, papayas, cashew nuts, passion fruits and green beans. Small farmers in Côte d'Ivoire would be affected. The MRLs did not seem to be consistent, or to be based on a pertinent risk assessment, for example in the case of Ethephon. Technical questions posed in April 2001 through different channels had remained without answer. Although technical assistance for pineapple production was planned, it had not been carried out before the entry into force of the EC directive. Côte d'Ivoire requested waivers from the EC directive. Once the planned technical assistance had been carried out, adequate MRLs could be set with the collaboration of Codex. The European Communities recalled that one year ago the Committee had been informed of an EC decision to delay for one year the application of a series of MRLs for ACP countries. The year had now passed, and the directive was being implemented. Special and differential treatment had not solved the problem. For discontinued substances, the MRLs were set at detection levels; this was international practice. The European Communities would consider Côte d'Ivoire's request.

95. Legislation on the fungicide thiabendazole (TBZ)

Raised by:	Israel
Supported by:	
Dates raised:	July 2001 (G/SPS/R/22, paras. 128-129)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

133. Israel was concerned that legislation being considered by the European Parliament would ban fungicide residues in fruit juices, although they were considered safe according to Codex standards. Israel saw no scientific justification for banning the use of these fungicides, and believed this would create unnecessary trade barriers. Israel had raised both with the European Communities and with Germany a problem regarding German law which restricted residues of TBZ and Imazalil in citrus juices to such low levels that in effect this constituted a ban. Israel requested a clarification regarding the EC position on the European Parliament initiative. The European Communities explained that the European Parliament could introduce amendments to Commission proposals, and that Israel would be kept informed of the situation.

106. Regulations on genetically modified food and feed

Raised by:	United States
Supported by:	Argentina, Australia, Canada, Taipei, Chinese, Israel, Jordan, Singapore, Egypt

Dates raised:	October 2001 (G/SPS/R/25, paras. 40-44), March 2002 (G/SPS/R/26, paras. 45-56), April 2003 (G/SPS/R/29, paras. 84-87), June 2003 (G/SPS/R/30, para. 168)
Relevant document(s):	G/TBT/N/EEC/6 and 7, G/SPS/N/EEC/149, G/SPS/N/EEC/150, G/SPS/GEN/397, G/SPS/GEN/398, G/SPS/GEN/399, WT/DS291, WT/DS292, WT/DS293
Solution:	Panel reports adopted November 2006
Status:	Partially resolved

134. The United States expressed concerns that the EC proposals on traceability and labelling of agricultural biotechnology products had been notified only under the TBT Agreement and not the SPS Agreement, although the proposals made it clear that they were intended to address unforeseen adverse effects to human and animal health. Canada and the United States sought clarification as to whether the draft regulations covered food safety or human health. Argentina noted that genetically modified food did not affect health, and that the compulsory labelling required by the proposed EC regulation was not consistent with the TBT Agreement. Argentina sought clarification as to whether the labelling requirements extended to pharmaceutical products for human or animal use.

135. The European Communities observed that requests to prolong the consultation period had been accepted and this period would run until the end of the year. The main objective of the proposed regulations was to ensure that consumers were duly informed of the products they bought. Two other key issues were traceability and labelling. The labelling of pharmaceuticals containing GM ingredients was covered by different legislation. The European Communities stated that discussions should continue in the TBT Committee.

136. In March 2002, the United States noted that the EC measure notified as G/SPS/N/EEC/149, would require a lengthy food safety review for all biotech foods, and for the first time, biotech feeds, which would also need to be labelled. Products already authorized for food or feed use within the European Union would have to be re-authorized within nine years of their first placement on the market. The stated objective of this regulation was to protect health, environment and consumers and to prevent deceptive practices. However, the proposed regulation failed to distinguish the protection of health and the environment from perceived consumer desires. The regulation would be more trade restrictive than necessary and could create substantial difficulties for countries which imported US agricultural products for processing and further export, without addressing the identified concerns and potential hazards. The United States suggested that without affordable testing and enforcement, the proposed regulation left room for fraud, and the European Commission should examine the feasibility of implementing the regulation, and analyze its potential regulatory impact.

137. The United States further noted that the new EU Food Authority (EFA) would undertake the risk assessments for biotech food and feed, and provide technical and scientific information. But the European Commission could propose an outcome inconsistent with the risk assessment or other safety and technical information considered by EFA. This left room for political interference of the type that had led to the existing moratorium on the approval of biotech products. Furthermore, the EC legislation set a "no risk" level which could effectively block the regulatory process since no product could ever be guaranteed to have "no risk".

138. Canada believed that these proposed regulations fell within the scope of the SPS Agreement, and the primary concern of Canada was that certain elements of these proposals lacked the needed scientific basis. Argentina supported the US and Canadian statements. Israel expressed concern with the trend of Members' requiring traceability and mandatory labelling for biotech food and feed products, a requirement not based on scientific information, and hoped that Members could find less

trade restrictive measures to address their concerns. Jordan supported the consideration of the safety of GM products on the basis of risk assessment as provided in the SPS Agreement. Requirements imposed on processed products would result in unjustified costs that affected the competitiveness of products, and resulted in greater restrictions on developing countries. Egypt supported the statements of the United States and Jordan. Singapore requested the European Communities to take account of all the concerns raised to ensure that the implementation of the regulations did not impose a disguised restriction on trade, particularly for countries which processed and re-exported goods imported from the United States.

139. Chinese Taipei stated that safety assessment of all GM products should be based on scientific evidence to ensure that the products were as safe as their conventional counterparts. Members should work together in particular to strengthen risk communication. Chinese Taipei considered that an appropriate labelling scheme was necessary to respect consumers' right to know and to choose, and had introduced voluntary labelling in January 2001. Mandatory labelling would be applied in three phases starting in January 2003.

140. The European Communities recalled that these regulations had also been notified under the TBT Agreement, and that the TBT Committee had held detailed discussions at the technical level the previous week. The European Communities believed that a large part of these proposals fell within the scope of Article 2.2 of the TBT Agreement, but had notified these measures also under the SPS Agreement because many Members had expressed interest in the SPS Committee. The time-period to allow Members to submit comments also in response to the SPS notifications had been extended. The comments received had been very similar to those received in response to the TBT notification, and the European Communities subsequently circulated its response to comments received about both notifications.

141. The European Communities further reported that the draft regulation had been adopted by the EC College of Commissioners and sent to the EU Parliament and the EC Council for their final decisions. The comments received by the EC Commission, as well as the responses to these, would be provided to the EC member States, the EC Council and Parliament. It was unclear how long the process would take and when any decisions might be made. The European Communities noted that the EFA would be a scientific body with responsibility to do independent risk assessment; its advice would be sent to the EC Commission and Council for the appropriate risk management decisions. This procedure was consistent with the Codex guidelines, since it was not appropriate for the risk assessment body to also make the risk management decisions.

142. In April 2003, the United States recalled its previous criticisms that the EC biotechnology policies breached both EC laws and WTO rules. By blocking imports on an unscientific basis, the European Communities was interfering with the use of safe food products that could stem global hunger, improve nutrition and benefit the environment. Canada and Argentina echoed the concerns of the United States. Australia stated it shared many of the concerns raised by the United States and Canada with regard to the lack of science based decision-making.

143. The European Communities reported that on 17 March 2003, the Council of Ministers adopted a common position on biotechnology approval, labelling and traceability and the legislative proposals had now returned to the European Parliament for a second reading under the co-decision procedures. The second reading should be concluded at the beginning of July 2003, which implied that the proposals should be adopted before the end of 2003. Once approved, the labelling and traceability proposals should make it possible for the moratorium on biotechnology approvals to be lifted since EC member States had imposed the moratorium in the absence of a clear regulation on traceability and labelling.

144. The European Communities also indicated that the biotechnology approval procedure envisaged in Directive 2001/18 was now operational and the EU Scientific Committee had given its opinion as to the procedure necessary to conduct a risk assessment. The opinion was available on the internet. Nineteen new or revised submissions had been received since the start of 2003 and the assessments had begun in accordance with the provisions of the Directive. The European Commission was awaiting comments from the Scientific Committee on the risk assessments. The outcome of the risk assessments would depend on the quality and conformity of the scientific data being submitted to determine the effects of GMOs on human health and the environment.

145. In June 2003, the United States, Canada and Argentina reported they had held consultations with the European Communities under the dispute settlement procedures on 19 June 2003, and were now considering further actions.

117. Traceability and labelling of genetically modified organisms and food and feed

Raised by:	Argentina, Canada, United States
Supported by:	Australia
Dates raised:	March 2002 (G/SPS/R/26, paras. 57-62), November 2002 (G/SPS/R/28, paras.95-96), April 2003 (G/SPS/R/29, paras. 88-90), March 2004 (G/SPS/R/33, paras. 43-47)
Relevant document(s):	G/SPS/N/EEC/150, G/SPS/N/EEC/149, G/SPS/GEN/354, G/SPS/GEN/337 and 338
Solution:	
Status:	Not reported

146. The United States specified that the EC traceability requirement was to apply to all biotech food and feed products at all stages of placing the product on the market. The stated objective was to facilitate control of labelling claims, environmental monitoring and control of the product. Food processors would be obliged to maintain specific information at each stage of placing the product on the market, including details as to whether the product contained or was produced from biotech products. As a general rule, if a product contained ingredients consisting of biotech products or produced from biotech events, these must be identified. This included products made from but not containing biotech products, such as soybean oil. The United States believed that this proposal would be expensive to implement, but would not be enforceable nor would it achieve its stated objectives.

147. The United States was further concerned that the measure was not targeted at health risks, and applied to products already approved for use within the European Communities. Traceback systems for food safety had been effectively used to recall food in the United States in response to health problems, based on batch and lot numbers on packages. However, the proposed traceability system would be applied across-the-board to products whose safety had already been assessed. Before adopting the measure the United States urged the European Commission to assess the feasibility of applying the measure reliably and accurately; consider less trade restrictive means to achieve the objectives and evaluate the regulatory impact of the proposal.

148. Australia indicated that it had submitted detailed written comments that questioned the scientific basis for the EC measures, the international standards to be used, and the nature of the risk assessment underpinning the EC measures. Australia also questioned whether a less trade-restrictive measure could be used, and why the traceability system for GM foods differed substantially from that for other foods. Argentina shared the concerns raised by the United States and Australia.

149. Norway indicated doubts as to whether the SPS Agreement was relevant to the issue of GMOs and added that Norway strongly believed that labelling and traceability were not contrary to WTO obligations. The EC regulations took account of the Codex, the Cartagena Protocol and the OECD guidelines. According to the Codex guidelines, food labelling should be used to avoid misleading or confusing the consumer with regard to the true nature of a food. Consumers' distrust in food products would be greater if labelling and traceability were not required. Norway believed that the EC measure addressed a legitimate objective that was not excessive in relation to its purpose. Cyprus stated his country's support of the EC position regarding information to consumers.

150. The European Communities stated that all comments would be considered and communicated to the appropriate bodies. Current labelling requirements in the European Communities required information on ingredients included in food products; all that was added in terms of labelling was to ensure the inclusion of GM products within the general requirements. There were four objectives of traceability: (1) to recall products in case of an unforeseen problem; (2) to monitor potential risks for the environment; (3) to control the accuracy of information provided on the label; and (4) to inform consumers about what they ate and to avoid deceptive practices. The EC Commission considered that these four objectives were primarily related to the TBT Agreement, and had notified this proposal to the SPS Agreement only for transparency.

151. Canada observed that one of the stated objectives of the proposed regulation was to provide a high level of protection of human health. Canada accepted that consumers had the right to know many things, but found troublesome that these regulations focussed on products made from GM products but not on products made with GM processing aids, even when there might be traces of the processing aids left in the product. Several industries in Europe used GM processing aids. The selective focus was also troubling in that consumers did not need to be informed if products were derived from mutagenesis, another form of genetic alteration. The focus of the EC regulations was overly specific and selective. Furthermore, the mandatory nature of the traceability system created problems especially for enforcement. Canada noted that no international standard existed in this area; the Biosafety Protocol was not yet in effect and neither it nor the OECD guidelines were referred to in the SPS Agreement. Canada looked forward to a scientific assessment of the needs, challenges and benefits of the proposed mandatory traceability system. In November 2002, Argentina drew attention to the 21 questions for which his country was seeking a written response from the European Communities (G/SPS/GEN/354). Argentina enquired as to whether the latest version notified by the European Communities included the amendments made by the European Parliament. The European Communities noted that they had received the questions from Argentina at a late date, and would provide answers to the questions in writing. The European Communities usually notified a draft text to the WTO to allow Members enough time to comment while the proposed regulation was being circulated in the Parliament and Council. Discussions were still underway in these two bodies and as soon as a final regulation was adopted it would be notified to the SPS Committee for information.

152. In April 2003, Argentina enquired whether the European Communities were in a position to answer specific questions it had raised in the last Committee meeting on the proposed traceability and labelling legislation. The European Communities responded that the additional questions submitted by Argentina were being studied and that a reply, based on the new version of the two legislative proposals, was being finalized. The European Communities also stated that detailed answers had already been given to many questions raised by Argentina in documents G/SPS/GEN/337 and 338.

153. In March 2004, the United States noted that the EC rules on traceability and labelling of genetically modified organisms and on food and feed would come into effect in April 2004 but many questions and uncertainties remained. The European Communities were requested to delay the implementation and enforcement of the regulations until the implementing guidance on sampling and testing was also issued. Canada questioned the scientific justification of the regulations and expressed concern that burdensome documentation and other requirements were placed on products based upon

their production method. The traceability and labelling requirements were ambiguous given the absence of segregation systems and of internationally accepted testing methodologies to validate the presence of genetically modified foods. Australia requested that the European Communities consider less trade-restrictive alternatives.

154. The European Communities explained that EC regulation 1830/2003 had been adopted on 22 September 2003. The measure was considered more of a TBT issue but was notified to the SPS Committee at the request of several Members. The regulation supported EC consumer freedom to choose or avoid products derived from biotechnology and provided a harmonized framework that encouraged efficient functioning of internal markets. The regulation also allowed for the rapid withdrawal of products of risk to the health of consumers, animals, and the environment from the EC market.

130. Restrictions on shellfish

Raised by:	Indonesia
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras. 127-128), November 2002 (G/SPS/R/28, paras. 183-184)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

155. In June 2002, Indonesia raised concerns regarding an EC prohibition on shellfish from Indonesia due to biotoxic residues that had been applied for two years. The three gulfs in Indonesia which were not free of biotoxins were closed to shellfish fishing. Indonesia had responded to a questionnaire from the European Communities and was waiting for the European Communities to send an inspection team.

156. The European Communities indicated that given the high risks associated with shellfish, it accepted products only from countries with an approved sanitary programme which included control procedures for the maritime production area. The information provided by Indonesia had given the impression that controls were not mandatory, and in March 2001 the European Communities had sent a further questionnaire. The European Communities indicated that as soon as the reply to the questionnaire was received, an EC evaluation team would visit Indonesia.

157. In November 2002, Indonesia reported that an EC inspection team had visited Indonesia in October 2002. Indonesia was of the view that the resolution of the problem would have a very positive effect on the fish industry in Indonesia, especially at the production level. The European Communities commended Indonesia for all the efforts that the country had made to meet the safety requirements set out in EC legislation, and hoped that further progress would permit resolution of the problem.

131. Pesticide and antibiotic limits in honey (Directive 96/23)

Raised by:	Cuba
Supported by:	

Dates raised:	June 2002 (G/SPS/R/27/Corr.1, paras. 130), November 2002 (G/SPS/R/28, para. 178)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

158. Cuba indicated that it had sought bilateral consultations with the European Communities on pesticide residues in honey. The European Communities confirmed that it was examining a plan submitted by Cuba for residue analysis, and would continue to pursue this bilaterally.

159. In November 2002, Cuba reported that progress had been made in bilateral consultations with the European Communities on regulation EC 96/93 setting out residue limits for imported honey.

144. Restrictions on the importation of fruits and fruit juices

Raised by:	Brazil
Supported by:	Argentina, Bolivia, China, Cuba, Dominican Republic, Jamaica, Uruguay
Dates raised:	November 2002 (G/SPS/R/28, paras. 28-31), April 2003 (G/SPS/R/29, para. 211), June 2003 (G/SPS/R/30, paras. 164-165)
Relevant document(s):	G/SPS/GEN/355, G/SPS/N/EEC/160
Solution:	
Status:	Not reported

160. Brazil raised concerns regarding the European Communities Directive 2002/71/CE, published on 19 August 2002, which established new maximum levels for dimethoate residues in and on cereals, foodstuffs of animal origin and certain products of plant origin, including fruit and vegetables. Brazil noted that the EC directive would have the effect of banning Brazilian orange juice from the European market and requested the European Communities to review the directive, taking into account all scientific information available. Bilateral discussions held on the previous day had been fruitful and Brazil requested a copy of the EC's scientific studies as soon as possible. Brazil noted that the issue of MRLs for dimethoate would be reconsidered by Codex at its meeting in June 2003, and requested the European Communities to suspend the implementation of this directive pending to a full assessment of the situation. Brazil also requested the European Communities not to apply the same approach in the re-evaluation of 320 active substances that was now underway. Argentina, Bolivia, Cuba, the Dominican Republic, Jamaica, and Uruguay supported the arguments made by Brazil, in particular, the need for scientific justification for maximum residue levels (MRLs), and expressed concern regarding the implications for developing country exports.

161. The European Communities stated that the document put forward by Brazil had not yet been discussed in Brussels. Dimethoate was already under evaluation by the European Communities and was one of the several hundred plant protection products which was being reassessed for its safety to the environment, animal and public health. The decision to establish a limit of analytical detection had not been lightly taken, but the scientific evidence suggested that the existing MRL was inadequate to provide for an appropriate level of health protection. A number of years ago a recommendation had been made to the Codex Committee on Pesticide Residues to withdraw the MRL for dimethoate. Under the circumstances the European Communities had considered it necessary to adopt this measure, although this was not a popular decision because this substance was used by a range of EC

growers of citrus and other fruit products, and they were being obliged to withdraw its use. The measure had been notified (G/SPS/N/EEC/160) and that comments had been received and taken into account from a number of countries, including Brazil. The fears expressed by several countries over the impact of the ongoing evaluation of a range of other active substances would be communicated to the appropriate authorities.

162. In April 2003, Brazil stated that it looked forward to a receiving a copy of the EC scientific studies that would serve as the basis for the new European regulation setting MRLs for dimethoate.

163. In June 2003, Brazil noted that a shipment of Brazilian apples had been rejected in Sweden and that this was one example of how it would be affected by the new MRLs. The burden of proof for justification of the new measures was on the European Communities and its present approach was not in accordance with the principles for special and differential treatment. China supported the concerns of Brazil. The European Communities stated that bilateral consultations had been held with Brazil and hoped that the problem would be resolved soon. The underlying problem was that many pesticides and chemical products which were in use had never been properly evaluated. Where no toxicological data existed, the European Communities would use the level of detection. For products for which data was provided, the European Communities would proceed to establish an appropriate maximum residue level.

168. Maximum levels for aflatoxins in corn and sampling contaminants in food

Raised by:	Argentina
Supported by:	
Dates raised:	June 2003 (G/SPS/R/30, paras. 32-33), October 2003 (G/SPS/R/31, paras. 52-53)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

164. Argentina reported that consultations between its authorities and the European Communities had taken place on 2 July concerning EC Regulation 257/02 which imposed new maximum levels for aflatoxins in maize. Argentina considered the new measures to be scientifically unfounded and requested the European Communities to consider less trade restrictive measures and the possibility of special and differential treatment. The European Communities noted that there were considerable health problems with aflatoxins and the difficulties of establishing an appropriate limit. The new regulation would be notified to the Committee before it was applied and interested trading partners would have the opportunity to present their concerns and objections. In response to a question from Egypt, the European Communities clarified that the new measure would apply only to maize.

165. In October 2003, Argentina stated that the MRL for aflatoxin depended on the intended use of products and the levels were not consistent with international recommendations nor based on scientific evidence. However, the new regulation modified the MRL for corn and was less restrictive. Argentina requested a review of the sampling levels along with the scientific justification to support the measure. The European Communities stated that it had conducted scientific research to support the MRLs adopted for corn and that the levels could be met through good agriculture practice. The MRL for corn was established to protect consumer health.

169. EC proposed regulation on maximum residue levels of pesticides

Raised by:	Argentina, China
Supported by:	Bolivia, Brazil, Chile, China, Colombia, Cuba, Honduras, Mexico, Paraguay, Uruguay
Dates raised:	June 2003 (G/SPS/R/30, paras. 75-77), October 2004 (G/SPS/R/35, paras. 76-79)
Relevant document(s):	G/SPS/N/EEC/196 and Add.1
Solution:	
Status:	Not reported

166. China indicated that it was highly concerned with the approach taken by the European Communities on maximum residue levels in plant and animal products and had submitted comments on the notification. China believed that the new rules were not in compliance with the SPS Agreement and requested information on the risk assessment undertaken by the EC. Brazil noted that it had previously raised similar concerns and requested a three year postponement of the measure. Chile expressed support for the position taken by China and Brazil and also requested information on the risk analysis and the scientific basis for the maximum residue levels. Brazil queried whether, for those pesticides where there was no scientific evidence, a precautionary approach would be used.

167. The European Communities replied that the draft rule replaced and simplified four existing directives. The new rule was scheduled to enter into force on 1 January 2005 and would lead to a harmonization of maximum residue levels in the European Communities. The transitional process would be very long and additional comments could still be made. The objective was to examine 325 substances in order to update the available information and to set maximum residue limits since zero level was difficult to achieve. The new rule would not lead to a withdrawal of given authorizations except for use within the European Communities. Imports from third countries would not be automatically banned, but could be accepted on the basis of maximum residue limits when it could be shown that these limits were sufficient to protect health. Members and the Codex Alimentarius were invited to submit comments on which levels of residues might be considered as acceptable.

168. In October 2004, Argentina raised concerns over EC notification G/SPS/N/EEC/196/Add 1. The proposed rule would seriously affect developing countries' agri-food exports. Of particular concern was the EC default level of zero for maximum residue limits set for products that had not being authorized or when data was unavailable to demonstrate the safety of the residues. This requirement was implemented for economic reasons rather than for food safety considerations. Moreover, many of the maximum residue limits set by Codex had not been accepted by the European Communities, especially those set before 1990. The European Communities should provide scientific justification for deviations from international standards as well as consider the economic impact of the implementation of its proposed regulation on trading partners.

169. ASEAN, Bolivia, Brazil, Chile, China, Colombia, Cuba, Honduras, Mexico, Paraguay, and Uruguay echoed the concerns raised by Argentina. Chile and Cuba asked what methodology was used in setting the default detection limit. The Philippines, on behalf of ASEAN countries, supported the statement made by Argentina and asked why the European Communities had not adopted relevant Codex standards. The European Communities should provide a risk assessment if a higher level of protection than that achieved by the relevant Codex standards was adopted. Furthermore, developing countries lacked the technological and analytical capability to comply with the new default approach and this could have adverse economic implications for them.

170. The European Communities explained that a listing of all available risk assessment documents on approved MRLs had been made, including those MRLs for pesticides approved many years ago. Some of the risk assessments were no longer relevant today and so a reassessment of the pesticides was needed. The industry was requested to supply the relevant scientific and technical data to carry out these risk assessments. However, the industry was no longer interested in marketing some of the older pesticides and were not keen to fund research. Therefore, these pesticides were withdrawn from the list and a residue default level was set for them. The European Communities would, however, allow the use of these pesticides if furnished with relevant risk assessments from interested trading partners. Argentina was requested to provide its questions in writing so that detailed written replies could be communicated to all interested Members.

175. Notification on food and feed controls

Raised by:	United States
Supported by:	Canada
Dates raised:	October 2003 (G/SPS/R/31, paras. 39-41)
Relevant document(s):	G/SPS/N/EEC/191 and Add.1
Solution:	
Status:	Not reported

171. The United States stated that the notified measure would establish an extensive series of official controls on feed and food to be implemented by 1 January 2005. EC member States' control systems would be harmonized, integrating specific controls at all stages of production in all food and feed sectors. "Control plans" from exporting countries would have to be submitted annually to the European Communities. All exporting countries would have to demonstrate compliance or equivalence to the EC food safety measures for all products to be exported as a precondition for market access. Control plans required information on all legislation, organization of competent authorities, training of staff, resources available and assurance of equivalence of domestic safety measures. While the United States agreed this approach was appropriate for high risk products such as meat and poultry, it felt that this level of risk management was not appropriate for other types of food for which any identified risks were generally quite low.

172. Canada shared the concerns raised by the United States and noted that it had recently submitted comments to the European Communities. Canada sought more information regarding the requirements for non-EC countries.

173. The European Communities explained that the regulation should facilitate conformity of imported food with EC health standards and principles for checking food stuffs. Written comments received by the 27 July 2003 deadline would be considered by the EC Enquiry Point and Council of Ministers. As for the control plans, much of the requested information was already available on internet sites, i.e., USDA and FDA. The regulation, which was based on Codex recommendations, would facilitate trade through more transparency and the exchange of information on controls or checks for third countries.

176. Notification on maximum tolerance levels for ocratoxin A in coffee – Maintained by Germany

Raised by:	Colombia, Papua New Guinea
Supported by:	Bolivia, Brazil, Chile, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, India, Mexico, Nicaragua, Peru
Dates raised:	October 2003 (G/SPS/R/31, paras. 47-49), March 2004 (G/SPS/R/33, paras.34-39)
Relevant document(s):	G/SPS/N/DEU/9 and Add.1, G/SPS/GEN/434, G/SPS/GEN/470
Solution:	
Status:	Not reported

174. Colombia stated that on 17 June 2003, Germany had notified a draft regulation for MRLs for ocratoxin in products, including soluble and roasted coffee. In September 2003, the application of the measure had been postponed until December 2003. Colombia believed that the MRL was disproportionate to the risks and that the scientific evidence regarding risks to human health was inconclusive. The economic losses could be significant for Colombia as it exported 1.7 million bags of coffee to Germany, which was equivalent to 17 per cent of its total coffee exports. The testing could result in 6 per cent of all coffee entering Germany from Colombia being rejected. Colombia questioned the relationship between this measure and the EC regulations.

175. Bolivia, Brazil, Chile, El Salvador, Guatemala, Mexico and Peru shared the concerns expressed by Colombia. Brazil noted that the higher MRL for soluble product compared to the roasted coffee was unusual, as normally products for direct consumption had lower levels of MRLs.

176. The European Communities explained that each EC member State retained the right to adopt national legislation for the protection of human health when no EC standard existed. Since there was no MRL ocratoxin A for coffee in the European Communities, Germany could establish its own MRLs. The measure was based on new scientific evidence. The European Commission had organized a meeting between Colombian and German toxicology experts, and replies to Colombia's questions would be circulated to all Members shortly.

177. In March 2004, Papua New Guinea informed the Committee that it had submitted comments on Germany's measures on coffee in G/SPS/GEN/470. Colombia stated that written responses to its questions outlined in G/SPS/GEN/434 had not been provided by the European Communities. Germany had since informed Colombia of the approval of the Bundesrat Directive 713/03 by the Ministry of Consumer Protection, Food and Agriculture. Directive 713/03 changed the existing regulation of the MRLs for Ocratoxin A (OTA) in roasted and soluble coffee in Germany. Germany also indicated that the European Communities would be notifying a similar measure for roasted, soluble and green coffee. Colombia was concerned about the impact of the measure on the marketing of coffee in Europe and requested the European Communities to respond to its questions.

178. Bolivia, Brazil, Costa Rica, Cuba, Dominican Republic, El Salvador, Ecuador, Guatemala, India, Mexico, Nicaragua, and Peru shared the concerns raised by Papua New Guinea and Colombia. Germany's MRLs for OTA in coffee were discriminatory and scientifically unjustified. Germany was requested to answer the questions previously posed by Colombia and to take into consideration the special needs of coffee exporting countries.

179. Codex explained that OTA, a mycotoxin contaminant, had been a standing agenda item of the Codex Committee for Food Additives and Contaminants (CCFAC) since its 23rd session in March 1991. A risk assessment of the consequences of establishing a maximum level of 5 micrograms/kg or

20 micrograms/kg for OTA in cereals and cereal products had been conducted based on food consumption data for European type diets. Cereals and wine were identified as major dietary contributors of the overall intake of OTA, while coffee and grape juice were considered minor contributors. The Joint FAO/WHO Expert Committee on Food Additives and Contaminants (JECFA) retained the previously established Provisional Tolerable Weekly Intake of 100 nonograms/kg of body weight and recommended that overall contamination of foods, especially cereals, should be lowered by appropriate agriculture, storage and processing practices. The conclusion of the JECFA evaluation was available from WHO as Technical Report Series 906. CCFAC would consider draft maximum levels for OTA in cereals at its 36th Session.

180. The European Communities stated that Colombia's questions were still under consideration by EC authorities and that a draft Codex standard for OTA levels in cereals was under discussion. MRLs for OTA had been established within the European Communities for a number of foods, but not for coffee. Germany therefore had the right to establish maximum OTA levels for coffee. The European Communities had already determined MRLs for OTA in cereals and derivative products under EC Directive 466/2001, latter modified by Directive 472/2002. As for beer, OTA levels were regulated indirectly by the maximum OTA limits set on barley. OTA levels for roasted and soluble coffee, wine, certain dried fruits and fruit juices would be determined by the end of 2004 and notified to the WTO in due course. EC Directive 2002/26 established the sampling methods and criteria used for the analysis of OTA levels in foods. The European Communities also stated that Germany had not rejected shipments of Colombian coffee due to excessive levels of OTA.

191. Maximum residue levels for pesticides on food

Raised by:	China
Supported by:	
Dates raised:	June 2004 (G/SPS/R/34, paras. 49-51)
Relevant document(s):	G/SPS/N/EEC/243
Solution:	
Status:	Not reported

181. China raised concerns that the maximum residue limits (MRLs) notified in G/SPS/N/EEC/236 and 237 were several times lower than the MRLs proposed by other developed countries and by the Codex Alimentarius Commission. The European Communities were requested to provide scientific justification for its measures or modify the MRLs according to relevant international standards. In addition, the European Communities were requested to extend the time period for implementation of the measure from the date of adoption to one year and provide China with the testing methods for the concerned MRLs.

182. The European Communities stated that it was prepared to address China's concerns on notification G/SPS/N/EEC/243, as indicated in the draft agenda, but was not prepared to provide specific answers to China's concerns on the notifications G/SPS/N/EEC/236 and 237. However, a detailed written reply would be sent to China shortly. The European Communities clarified that the proposed date of entry into force in notifications G/SPS/N/EEC/236 and 237 should read 19 January 2005 instead of 19 January 2004. Furthermore, some of the Codex MRLs mentioned by China were proposed for revocation at the next meeting of the Codex Alimentarius Commission. EC MRLs for pesticide quantities in foodstuffs were higher than international standards in four cases: (1) phyto pharmaceutical products which did not lead to detectable levels of pesticides residues in foodstuffs; (2) unauthorized use of the pesticides; (3) EC authorizations which were unsupported by technical

and scientific evidence; and (4) residues present in imported foods without sufficient scientific evidence indicating their food safety. In this case, the European Communities undertook its own assessment and was also willing to consider data submitted by the exporting country.

197. EC regulation on Ocratoxin A in coffee

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

183. In October 2004, Colombia reported that in May 2004, the European Communities had responded to Colombia's questions regarding Germany's measures on Ocratoxin A (OTA) in roasted and soluble coffee (see also item 176), explaining that Germany was able to set maximum levels OTA in coffee as harmonized EC standards were not yet established (G/SPS/GEN/490). On 1 September 2004, the European Communities issued G/SPS/N/EEC/247, notifying Members of the EC proposal to establish levels for OTA in roasted and soluble coffee.

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

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

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

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

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

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

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

198. EC regulation on aflatoxins and Ocratoxin A in foods for infants and young children

Raised by:	China
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 68-69)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

191. China raised concerns over EC notification G/SPS/N/EEC/223 and addendum on aflatoxins and OTA in foods for infants and young children. Studies conducted by JEFCA concluded that the acceptable level of risk was the same when the level of aflatoxin B1 was reduced from 20 to 10 mg/kg and when the level of aflatoxin M1 was reduced from 0.5 to 0.05 mg/kg. Any further reductions of the levels of aflatoxins B1 and M1 would have no significant impact on public health safety. Furthermore, JECFA, in its 37th Session, had established a weekly intake of OTA of 112 mg/kg. This minimum intake was subsequently lowered to 100 mg/kg at the 44th Session of JECFA and remained unchanged in the 56th Session based on results of risk assessments carried out on OTA levels in cereals and cereal based products. The European Communities was requested to provide scientific justification for its measures and to consider the impact of the measures on international trade.

192. The European Communities stated that the EC regulation amending Commission regulation 466/2001 concerning aflatoxins and OTA in foods for infants and young children applied to products placed in EC markets and was effective from 1 November 2004. Although China had not submitted comments during the comment period, China's comments would be taken into account and a written response would be provided. The JECFA studies referenced above were based on intake levels of adults, rather then on intake levels of infants. The European Communities had therefore considered it necessary to establish maximum levels of aflatoxins of B1, M1 and OTA for infants and young children. These maximum levels were achievable and substantiated by data. Furthermore, they had little trade implications, as finished foods for infants and young children were not traded in significant amounts.

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

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

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

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

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

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

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

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

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

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

208. Food and feed hygiene rules

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

199. Canada sought clarifications from the European Communities on the requirements that would apply to third countries when the new food and feed hygiene rules come into force on 1 January 2006 (Regulations 852/2004, 853/2004 and 854/2004). Canada further invited the European Communities to solicit comments from third countries sufficiently in advance of the implementation date so that the comments could be incorporated into the final measures. The United State encouraged the European Communities to provide more formal explanations of the nature and scope of the rules applying to exporting countries. Jamaica agreed with Canada and United States on the need for further clarifications from the European Communities.

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

219. EurepGAP requirements for bananas

Raised by:	Saint Vincent and the Grenadines
Supported by:	Argentina, Belize, Cuba, Dominica, Ecuador, Indonesia, Jamaica, Kenya, Mexico, Peru, South Africa, Egypt
Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 16-20), October 2006 (G/SPS/R/43, paras. 40-41)
Relevant document(s):	G/SPS/GEN/766
Solution:	
Status:	Not reported

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

202. The European Communities clarified that EurepGap was a private sector consortium representing the interests of major retailers. Even if these standards, in certain cases, exceeded the requirements of EC SPS standards, the European Commission could not object to them as they did not conflict with EC legislation. The European Communities encouraged developing country Members,

and particularly least-developed country Members, to discuss this issue with non-governmental organizations since, in many respects, the EurepGap requirements reflected their concerns.

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

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

205. In October 2006, Saint Vincent and the Grenadines indicated that their concerns with respect to the EurepGAP issue remained the same, even after the informal session held before the meeting to explain the issue of private standards. The cost implications of these private standards, which were often of greater rigidity than the internationally set standards were very huge, especially for small farmers in small and vulnerable economies. Argentina, Belize, Cuba, Dominica, Egypt, Indonesia, Kenya and South Africa shared the concerns of Saint Vincent and the Grenadines and suggested that the issue of private and commercial standards in general should be included on the agenda of upcoming SPS Committee meetings.

220. Proposed regulations for piper methysticum (kava-kava) – Maintained by United Kingdom

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

206. At the June 2005 meeting, Fiji expressed concerns regarding the UK notification of emergency measures on kava-kava, as kava-kava was one of Fiji's few tradable crops of economic significance. Fiji's concerns were related to the request of the UK Commission on Safety of Medicines (CSM) to prohibit kava-kava use in unlicensed medicinal products on the grounds that the CSM had sufficient evidence to conclude that kava-kava was associated with rare cases of liver toxicity. According to an in-depth investigation of kava-kava products conducted by a German consulting firm in 2003, the efficacy and safety of kava-kava had been proven by 20 clinical trials including more than 10,000 patients and supported by post-marketing experience in Europe, the United States and other areas. Health authorities such as the US Food and Drug Administration agreed that kava-kava was a

safe drug. Findings also showed that should the toxicity exist, it would occur in an extremely low number of patients, far below the incident rate observed with other freely available drugs. Out of 450 million kava-kava pills exported all over the word between 1990 and 2000, only three cases of liver problems had been linked to the pills. The Fiji kava-kava council was currently drafting a legislative text including, inter alia, standards, certification and labelling to ensure consistency and quality of supply. Fiji requested the European Communities to provide any new evidence that supported the claim that the consumption of products containing kava-kava was associated with liver damage.

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

Animal Health and Zoonoses

17. Cosmetics and BSE

Raised by:	Australia
Supported by:	Brazil, Chile, United States
Dates raised:	March 1997 (G/SPS/R/7, paras. 61-62), July 1997 (G/SPS/R/8, paras. 22-24)
Relevant document(s):	G/SPS/GEN/20, G/SPS/N/EEC/43
Solution:	
Status:	Not reported

208. Australia expressed concern regarding an EC measure specifying that cosmetics containing certain bovine, ovine and caprine tissues etc. should not be placed on the market. This directive did not recognize the animal health status of supplying countries. The European Communities stressed that since BSE surveillance was still under development and since detection was difficult, there was considerable uncertainty surrounding the global prevalence of BSE. All comments received by the deadline would be taken into account, and the regulation would enter into force on 1 July 1997. In July 1998, the United States stressed that the measure would reduce or eliminate US exports of tallow derivatives, soaps and cosmetics. The European Communities clarified that in light of WHO recommendations, measures had to be taken to reduce the risk of transmission of TSEs to humans through the food or feed chain, pharmaceuticals or cosmetics. Regarding BSE-freedom, the European Communities was not prepared to recognize any country as BSE-free, taking into account the difficulties of certifying such a status.

18. Certification requirements for pet food – Maintained by France

Raised by:	United States
Supported by:	Chile
Dates raised:	March 1997 (G/SPS/R/7, paras. 7-8), July 1997 (G/SPS/R/8, paras. 20-21), July 2001 (G/SPS/R/22, para. 127)

Relevant document(s):	G/SPS/GEN/18, G/SPS/GEN/265
Solution:	
Status:	Not reported

209. In March 1997, the United States expressed concern with regard to French certification requirements adopted under national legislation which blocked US exports of pet food and had not been notified to WTO. Bilateral exchanges with France had produced no progress. The European Communities regretted that their internal procedure for notification of national measures had delayed notification of the French measure in question. The measure had been based on discussions and recommendations at the EC Commission level, recommendations by the WHO, as well as parallel scientific discussions in the United Kingdom and France.

210. In July 1997, the United States again raised concerns with the French measure for protection from TSEs. The measure did not account for the fact that the United States was BSE-free, and did not seem to have a scientific basis. Furthermore, the measure applied to species not affected by TSEs, such as poultry and fish. Chile expressed concern regarding the effect the regulation might have on trade in fishmeal. The European Communities pointed out a few inaccuracies in the US document, and noted that the provisions banning the use of frozen animals or animal cadavers were not necessarily addressing health issues, but image and quality, and were therefore not strictly relevant under the SPS Agreement. Discussion of the matter continued within the European Communities.

211. In July 2001, the United States reported that its exports continued to be hampered by French certification requirements, which differed from those applied by other EC member States (G/SPS/GEN/265). The United States questioned the scientific foundation for excluding animal meat or bone meal from pet food produced in countries where BSE does not occur.

31. Rules on "specified risk materials" in products of animal origin

Raised by:	United States
Supported by:	Argentina, Australia, Brazil, Canada, Chile, Colombia, Czech Republic, Mexico, New Zealand, Switzerland, Uruguay
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, paras. 10-14), March 1998 (G/SPS/R/10, paras. 13-19), June 1998 (G/SPS/R/11, paras. 34-38), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GEN/36, G/SPS/GEN/45, G/SPS/GEN/67, G/SPS/GEN/265
Solution:	
Status:	Not reported

212. In October 1997, the United States raised concerns with Decision 97/534 EC banning the use of certain specified risk materials, which might cause international shortages of needed medical products and have a major restrictive impact on trade in tallow and derivatives, gelatine, pharmaceuticals and many food products. This ban seemed to be more restrictive than necessary to achieve its public health objectives, especially as it applied to the United States and other regions where BSE was not known to exist. The European Communities indicated that since scientific studies had shown that its previous measures might not be sufficient, it had raised its level of protection. Members who considered themselves to present no risk with regard to TSEs could present an application for examination by the EC Scientific Committee. Argentina indicated that in its view,

measures which failed to distinguish between countries infected with BSE and countries not infected were contrary to the OIE recommendations and the SPS Agreement. He distributed copies of a BSE risk analysis.

213. In March 1998, the United States reiterated that the European Communities should recognize the BSE-free status of the United States and other regions. Several delegations welcomed the EC decision to provide additional time to review all the scientific evidence and other important implications of the proposed measure and provided comments. The European Communities clarified that entry into force of its measure had been postponed from 1 April to 1 July 1998, and that BSE-free countries could apply for an additional derogation until 1 January 1999.

214. In June 1998, the European Communities reported that EC member States were still unable to reach a common position on the issue, and that the EC Decision would therefore not enter into force until 1 January 1999. In the meantime, member States had introduced a number of measures. The EC Commission was also submitting new legislation for approval, taking into account the OIE classification of countries with respect to BSE.

215. In July 2001, the United States indicated that the EC legislation on specified risk materials had entered into force for third countries on 1 April 2001 (G/SPS/GEN/265). The United States encouraged the European Communities to ensure that its measures took account of the disease situation in countries where BSE did not occur, such as the United States.

32. Gelatin imports

Raised by:	Brazil, United States
Supported by:	Argentina, Australia, Chile, Mexico, Thailand, United States
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, paras. 8-9), March 1998 (G/SPS/R/10, para. 16), September 1998 (G/SPS/R/12, paras. 22-23), November 1998 (G/SPS/R/13, para. 19), July 1999 (G/SPS/R/15, paras. 9-11), November 1999 (G/SPS/R/17, paras. 6-7), March 2000 (G/SPS/R/18, paras. 21-22), March 2001 (G/SPS/R/21, paras. 95-96), July 2001 (G/SPS/R/22, paras. 52-53), October 2001 (G/SPS/R/25, para. 34)
Relevant document(s):	G/SPS/GEN/133, G/SPS/N/EEC/74
Solution:	In October 2001, Brazil reported that the European Communities had lifted its restrictions in June 2001. US concern ongoing.
Status:	Partially resolved

216. In October 1997, Brazil indicated that its gelatin exports had been negatively affected by French requirements for specific production methods, which in Brazil's view lacked scientific justification. Where BSE had been diagnosed, raw materials for gelatin were considered low risk products. In addition, there had never been a case of BSE in Brazil. The European Communities responded that the French decision had been taken in the expectation of EC provisions which would introduce conditions related to microbiological and chemical criteria, and minimum requirements related to BSE. The OIE Code required certain provisions which in the EC view Brazil did not fulfill, and Brazil had not presented an application to the European Communities to request recognition of its TSE-free status.

217. Brazil reiterated its concerns in March 1998, and indicated that an EC questionnaire on animal feeding in Brazil would soon be officially provided to the EC authorities. In September 1998,

Brazil reported that despite numerous bilateral talks, no progress had been made. The European Communities noted that the origin of the problem was that Brazil considered itself as BSE-free, while in the EC view no country could be designated as BSE-free. Both countries agreed that there had been some misunderstandings and were willing to resolve them through further contacts. In November 1998, Brazil welcomed a new French decision which took into account some of the Brazilian comments, and urged France to implement these new requirements as soon as possible.

218. In July 1999, Brazil acknowledged the EC notification on the matter, but remained concerned as its gelatin exports were still interrupted. The proposed EC legislation, which was not based on a risk assessment, would severely impact the ability of non-European countries to supply gelatin to the EC market. Brazil asked that the European Communities accept other countries' measures as equivalent. The European Communities explained its new measure, and invited all Members to comment in writing. In November 1999, both Members reported that they had decided to pursue the matter bilaterally. In March 2000, Brazil and the European Communities made a joint communication announcing that constructive consultations had taken place, and that the European Communities would evaluate the relevant documentation provided by Brazil.

219. In March 2001, the United States indicated that since May 2000, EC and US authorities had been discussing the continuation of US gelatin shipments based on the equivalence of US and EC safety systems. Despite continuing efforts of US regulatory authorities and industry, the European Communities had not agreed to accept equivalence based on export certificates issued by US authorities. As a result, there had been no exports of US food grade gelatin to the European Communities since June 2000. The United States appreciated EC efforts to review information, and urged the Commission to accept the equivalence of US certificates. The European Communities stated that both sides had a clear idea of the problems involved, which were primarily of a judicial nature. The European Communities was proposing flexible solutions which both parties might find acceptable.

220. In July 2001, the United States reported that despite ongoing efforts, US shipments of gelatin had been discontinued since June 2000 because the European Communities had not agreed to accept equivalence-based export certificates. The United States had demonstrated that US gelatin food safety systems met the EC appropriate level of protection. The European Communities clarified that US gelatin was not prohibited, but that negotiations were underway on a specific certificate for the United States. The equivalence of the US production system had been established on all but two points, where compliance with additional requirements must be certified. Since December 2000, the only pending question was that FDA, as a matter of policy, did not certify compliance with foreign rules, while the European Communities required certification by a competent authority.

221. In October 2001, Brazil reported that intense bilateral consultations on Brazilian processing methods and controls had resulted in the European Communities lifting its restrictions as of 13 June 2001.

33. Salmonella-related restriction on fishmeal imports

Raised by:	Chile, Peru
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, paras. 48-50)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

222. Chile and Peru sought clarification regarding the EC directive governing exports of fishmeal, which was not applied to substitutes to fishmeal. These substitutes could also potentially be contaminated with salmonella, as had been confirmed by recent research carried out in the United Kingdom. The European Communities indicated that the directive was justified on the basis of available scientific information, although working groups were considering whether similar criteria should be applied to feedingstuffs of vegetable origin. Some EC member States had introduced heat treatment requirements, although others had found that there were not sufficient grounds for introducing such criteria.

223. Chile also raised concerns with unilateral import prohibitions by France and Italy affecting fishmeal for feeding ruminants, including mixtures with bone meal, with the alleged objective of preventing risk arising from contamination. The European Communities answered that it needed to effectively enforce its mammalian protein feed ban to ruminants, but was facing practical difficulties in segregating the origins of various raw materials, including fish. The European Communities indicated it would examine the issue together with the two member States involved.

64. Ban on antibiotics in feed

Raised by:	United States
Supported by:	Australia, Canada
Dates raised:	July 1999 (G/SPS/R/15, paras. 26-29)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

224. The United States noted the failure of the European Communities to notify the ban on four antibiotics used in animal feed to enhance production that had been adopted in December 1998. Canada and Australia shared the US concern, and Canada requested to be informed when the European Communities reviewed its measure, which it understood to be provisional. The European Communities replied that this was an interim protective measure which would be re-examined before the end of December 2000. The results of the re-examination would be shared with Members, as well as published electronically. The measure had not been notified because it did not contain any provision applicable to imports, and therefore had no effect on trade.

97. Restrictions on the use of fishmeal

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

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

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

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

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

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

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

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

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

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

234. The European Communities noted that this measure had been introduced as a control measure to prevent fraud and cross contamination and had not had serious consequences on trade. The measure was modified to allow for continued use of fishmeal for poultry and pigs. The ban was only applied to feed for ruminants which was only about three per cent of the market. The test, which allowed discrimination between protein of mammalian origin and of fish origin, removed the main technical scientific barrier to the lifting of the measure. The Commission, however, was concerned about reopening the feed dossier, given consumer sensitivities in this area.

159. Proposal on animal by-products

Raised by:	United States
Supported by:	Australia, Brazil, Canada, China
Dates raised:	April 2003 (G/SPS/R/29 paras. 40-45), June 2003 (G/SPS/R/30, paras. 47-49), October 2003 (G/SPS/R/31, paras. 27-30), March 2004 (G/SPS/R/33, paras. 53-55), June 2004 (G/SPS/R/34, paras. 39-41)
Relevant document(s):	G/SPS/N/EEC/103
Solution:	
Status:	Not reported

235. The United States stated that EC regulation 1774/2002 would severely restrict or prohibit a range of animal by-products intended for use in feed, industrial or other non-food purposes. Due to the lack of transparency of this regulation, the lack of sufficient time and information for exporters to comply and the EC failure to adequately address the concerns of third countries, the United States requested a delay in the implementation of the regulation. The United States was also concerned about derogations for certain EC member States that were not available to third countries, the lack of scientific justification for the regulation and the lack of a risk assessment for the proposed inter-species feed ban. Brazil shared the concerns raised by the United States.

236. China requested the European Communities to delay the regulation's implementation until 1 May 2005. Australia stated that without clarifications and equivalence determinations, it would have difficulty in complying by 1 May 2003 and might seek a delay in the full implementation of the regulation. Canada stated that it did not see how practical implementation of this regulation would be possible by 1 May 2003 and was of the view that a delay in implementation was warranted and required.

237. The European Communities stated that the objectives of the draft regulation were to ban the recycling of dead animals, offer alternatives to denaturation, take account of environmental requirements, control traceability of sub-products and simplify the patchwork of existing legislation. Information meetings on 13 November 2002 and 28 March 2003 were organized and an explanatory document had been produced. The measures were based on solid science, even though no formal risk assessment had been conducted for each chapter of the text, and the European Communities were willing to make all relevant information available to trading partners. Certain EC member States and third countries had expressed concern over the date of entry into force of the regulation. As a result, the European Commission was studying transitional arrangements which would enable temporary flexibility on certain provisions. Any temporary flexibility or new measures on certification of third country products would be decided on and notified to WTO Members with a new deadline for comment.

238. In June 2003, China reported that it had submitted comments on the EC regulation on animal by-products but had not received any reply. China would need a transitional period of two years to adjust. The United States stated that concerns raised at the last SPS Committee meeting were still valid. The European Communities confirmed that comments made by China would be carefully examined and that China would receive a response. The European Communities would take a flexible view on transitional measures for third countries.

239. In October 2003, the United States reported that despite bilateral technical discussions and the lack of scientific risk assessments, disruption of US exports of pet food was likely. Canada welcomed the decision to postpone implementation of the regulation for third parties beyond 1 May 2003. EC member States benefited from 16 transitional measures to allow them to adjust to the new regulations, and Canada asked to also benefit from such transitional measures. China requested a transitional review of the regulation and continued bilateral discussions.

240. The European Communities explained that transitional measures had been adopted for EC members States and additional time for compliance for all third parties allowed until 31 December 2003 (EC 1812/2003). Certification of imports had been reviewed and notified. The European Communities had decided to offer targeted transitional measures to third countries on a case-by-case basis. A technical agreement, based on comments received from Australia, Canada, China and the United States, would be notified shortly. The European Communities were awaiting the conclusions of a scientific review to produce the risk assessment which would be available in February 2004.

241. In March 2004, the United States expressed continued concern over the negative trade impact of EC regulation 1774/2002 which entered into force on 1 May 2004. This regulation was notified as

G/SPS/N/EEC/103 but questions on its implementation remained even though the European Communities had granted a one-year delay in its enforcement. The European Communities had yet to publish the final text of the regulation and the US request for a risk analysis had gone unanswered. The European Communities were asked to clarify the remaining implementation questions and to delay enforcement of the regulation. Canada shared the concerns of the United States and requested the European Communities to provide information on its plans to formally adopt the derogations as well as provide details of any other transitional measures that had been or would be granted to third countries.

242. The European Communities recalled that the implementation of transitional measures were announced in the June 2003 Committee meeting and introduced new provisions that required EC member States to provisionally accept imports from third countries. With regards to the risk analysis, a report would be available at the end of March. The second postponement of EC regulation 268/2002 and delayed implementation of EC regulation 1674 should enable trading partners to adapt to new conditions for certification of imports into the European Communities. The European Communities was also studying the possibility of adopting measures regulating the use of gelatine, collagen and other products destined exclusively for technical and industrial applications and banning their use in food, cosmetic, pharmaceutical and medical products. A draft bill had been submitted to the permanent committee this week and the European Communities would keep the United States and Canada updated on this issue.

243. In June 2004, the United States commented that EC Regulation No. 1774 imposed new requirements on gelatine, tallow, pet food, yellow grease and other animal by-products not intended for human consumption. This regulation had been implemented on 15 June 2004, although product could arrive in the European Communities as late as 15 August 2004. Consultations had lead to derogations on hide, skins and tallow but the United States continued to be concerned about other provisions of the regulation, particularly those related to pet food and yellow grease. Canada expressed satisfaction that the European Communities had adopted two transitional measures requested by Canada. Since these complicated regulations had been put in place, the European authorities had indicated that a flexible enforcement strategy would be implemented until 15 August 2004. Although no problems had yet been reported by Canadian exporters, problems could arise with the end of "soft" enforcement in August.

244. The European Communities stated that based upon on-going consultations with the United States and Canada, the regulations were modified to include justified exemptions. The EC regulation allowed cooking oils (yellow grease) to be used for animal feed only when they came from the food industry and only when a reliable system of traceability had been established. Imported used cooking oils intended for technical purposes remained authorized without restriction. The use of animal carcasses judged unfit for human consumption in pet food had been prohibited based upon scientific information which indicated that the BSE epidemic had spread through recycling of infected bovine material in bovine feed. A waiver had been implemented for the use of wild fish protein for feed for fish in fish farms. The European Communities indicated a willingness to discuss implementation of this regulation with Members concerned about potential trade restrictions.

160. Transitional BSE measures

Raised by:	United States
Supported by:	
Dates raised:	April 2003 (G/SPS/R/29, paras. 97-98)

Relevant document(s):	G/SPS/N/EEC/192
Solution:	
Status:	Not reported

245. The United States noted that according to Regulation 999/2001, the categorization of countries with regard to risk of transmissible spongiform encephalopathies (TSEs) would be made within six months of submission of the information. Although, the newly notified measure extended the transitional measure until 30 June 2005, the United States was concerned whether this was sufficient time for the European Communities to complete the classifications. There was no scientific justification for applying BSE-related restrictions on products from the United States.

246. The European Communities explained that the notification concerned an amendment to Article 23 of EC Regulation 999/2001 establishing rules for the eradication, prevention and control of certain TSEs. It included BSE and all TSEs. The amendment extended transitional measures established under Article 23 of this regulation. The regulation provided rules to determine the BSE status of particular countries which conditioned the application of measures covering the import of certain animals and animal products. Until the status determination was made, transitional measures were applied and were to remain in force until 30 June 2003. An assessment of the cases began at the end of 2001. However, modification of the categorization criteria was necessary to obtain a status reflecting actual risk. These criteria were taken from the international code of OIE but it appeared that the OIE was not ready to propose a list of BSE-free countries. Likewise, in the European Communities, scientific risk assessments for all countries were not yet finished, and the EC Scientific Committee had adopted opinions for only around one-third of countries asking for a determination of their status. Therefore, the transitional measures were being prolonged by two years until 1 July 2005. The European Commission would use this period to advance the work in the OIE on determining the BSE and TSE status of countries and complete the scientific risk assessments. The European Communities was examining the substantial documentation submitted by the United States in January 2003, and would report to the United States on the results of the risk assessment as soon as possible.

161. EC Directive 2001/661/EC on foot and mouth disease

Raised by:	South Africa
Supported by:	
Dates raised:	April 2003 (G/SPS/R/29, paras. 38-39)
Relevant document(s):	G/SPS/GEN/373
Solution:	
Status:	Not reported

247. South Africa stated that its concerns were detailed in G/SPS/GEN/373. South Africa and Namibia are identified as zones free from FMD without vaccination by the OIE. EC Directive 2001/661 recognized the free-zone status, allowing the import of fresh meat from South Africa except for areas within the FMD control zone of South Africa. However, Directive 2001/661 required supplementary guarantees for the export of ovine and caprine meat from the FMD free zones without vaccination and was inconsistent with Article 2.1.120 of the Terrestrial Animal Health Code of the OIE. Article 2.1.2.20 does not require the deboning of meat if the meat originates from FMD free countries or zones where vaccination is not practiced.

248. The European Communities explained that Council Directive 72/462 differentiated between various types of FMD. The Directive provided that the import of fresh meat from regions which were FMD free without vaccination but where vaccination against SAT or Asiat 1 viruses was practiced in another region of the country could only be authorized under certain conditions. One of the conditions was that the meat be mature, de-boned, with lymph nodes removed and that importation take place only three weeks after slaughter. These conditions applied to South Africa due to the presence of SAT in a part of South Africa even though certain areas were officially FMD-free without vaccination. The EC legislation, dating from 1972, was to be updated as SAT was no longer considered differently from other virus strains. This would occur with the entry into force of Council Directive 99/2002 on 1 January 2005. However, the European Communities was concerned that there had been four outbreaks of FMD in Namibia originating from Zimbabwe, where there were hundreds of cases. In these circumstances, it was prudent to authorize only the importation of de-boned, mature meat. Once the new Directive was in force, the European Communities would review its measure in light of the FMD situation in South Africa and its neighbouring countries.

170. Live animals and animal products

Raised by:	Australia
Supported by:	
Dates raised:	June 2003 (G/SPS/R/30, paras. 68-69)
Relevant document(s):	G/SPS/N/EEC/190
Solution:	
Status:	Not reported

249. Australia stated that the notified measure would affect its alpaca exports to EC member States although Australia had been free from blue tongue for more than a decade, as recognized by many countries. Australia had submitted scientific evidence to the European Communities on several occasions and requested an update on this issue.

250. The European Communities clarified that the new notification was not due to a new regulation but merely a result of a simplification exercise which did not address Australia's situation. The European Communities indicated that it would respond to Australia's request directly.

171. Animal health conditions and certification requirements for live fish

Raised by:	Australia
Supported by:	
Dates raised:	June 2003 (G/SPS/R/30, paras. 70-71)
Relevant document(s):	G/SPS/N/EEC/198
Solution:	
Status:	Not reported

251. Australia indicated that this new measure could affect its carp exports to EC member States. The United Kingdom had rejected live fish from Australia due to concerns about the existence of an unknown carrier state. Australia had suggested prior disinfection as a possible solution and had

requested the risk assessment on which the measure was based, but received no response. This requirement was not in line with OIE standards.

252. The European Communities replied that the time period for replying to comments had not yet expired. The European Communities believed that the measures could be considered standard measures and that no risk assessment was necessary, although it was prepared to discuss the issue bilaterally with interested trading partners.

177. Sanitary conditions for the importation of live material for apiculture

Raised by:	Argentina
Supported by:	Australia, New Zealand, United States
Dates raised:	October 2003 (G/SPS/R/31, paras. 42-44), March 2004 (G/SPS/R/33, paras. 56-58), June 2004 (G/SPS/R/34, paras. 27-29), October 2004 (G/SPS/R/35, paras. 51-52)
Relevant document(s):	G/SPS/N/EEC/208 and Add.1, G/SPS/N/ARG/71
Solution:	
Status:	Not reported

253. Argentina stated it recognized the need to minimize the risks of introducing pests of apiculture and that it had its own measures (G/SPS/N/ARG/71). However, the EC measure, which restricted the importation of queen bees and accompanying working bees from third countries, was unjustified. The EC measure required exporting countries to prove that they were free of the small hive beetle (Aethina tumida) and of the Tropilaelaps mite. Argentina was free from the pests and considered the EC response to its comments unsatisfactory. Argentina requested the European Communities to defer implementation of the measure.

254. The United States expected that the new regulation would take into account disease free areas, for example, Hawaii was free from the two pests. Australia supported the US position and stated that the EC proposed requirement was unreasonable and needed to take into account disease free status. New Zealand supported the comments made by Argentina, the United States and Australia.

255. The European Communities stated that the first notification was of a draft decision to restrict the importation of queen bees and their escorts to stop the introduction of the two parasites. These two parasites, although not included on the OIE list, posed a serious risk as they damaged hives and caused economic losses. Comments from Members had been taken into account and amendments to the measure had been notified. Disease free zones and health certificates covering these two pests would enable the safe import of bees into the European Communities.

256. In March 2004, Argentina reiterated that the presence of the small hive beetle (Aethina tumida) and the Tropilaelaps mite had not been reported in Argentina. The European Communities had not taken into consideration the differing sanitary status of exporting countries creating export challenges for those countries that did not have the two pests. A bilateral meeting with the European Communities was held on 16 March 2004 to seek a practical solution to this problem. The United States requested the European Communities to consider the fact that the state of Hawaii was free from the two concerned pests.

257. The European Communities indicated that the two pests of concern were very difficult to eradicate once introduced into a territory because the treatments were difficult to implement, were not

very effective, and left pesticide residues in the honey. The small Tropilaelaps mite, which transformed into a flying insect in the adult stage and could fly up to six kilometres per day, could have devastating effects on honey and other agricultural production. The proposed measures were not disproportionate to the risks. Bees could be allowed from third countries or from regions of third countries that had a competent veterinary service approved by the European Communities and where the existence of the two pests was required to be notified. The bees must also be accompanied by a sanitary certificate issued by the competent authority declaring that the bees came from within a 30-kilometre radius of the beehive and that this area was free of the two pests. Argentina satisfied these two conditions. During bilateral consultations with Argentina, practical problems faced by Argentina in the implementation of the control measures had been identified and the European Communities had agreed to find alternative solutions to these problems.

258. In June 2004, Argentina stated that the requirements that hives should be subject to official check at the point of destination and queens transferred to new locations were not supported by scientific justification. Documentation confirming the absence of the concerned pests in Argentina had been provided to the European Communities and Argentina hoped that an upcoming bilateral meeting with the European Communities would resolve this issue. Australia and the United States also expressed concerns about the appropriateness of the EC measure. Australia considered that the measures were inappropriate for the management of the small hive beetle. The United States reported that honey bee exports from Hawaii to the European Communities had been halted, although the state of Hawaii was free of many of the pests covered by this measure. The certification requirements for honey bees from Hawaii should be modified to reflect the conditions there. The European Communities recalled that these rules had been introduced to preserve the parasite free status of honey bees in the European Union. The European Communities was prepared to review the legislation and border measures of Argentina and other countries, when documentation had been provided, in order to assess the possibility of instituting joint measures.

259. In October 2004, Argentina reported that studies confirming the absence of the parasites in the main exporting regions were made available to the European Communities and the final version would be submitted to the OIE. Despite having taken these measures, trade in queen bees from Argentina was still restricted. Argentina urged the European Communities for a prompt resolution of the issue as trade in queen bees was a seasonal activity. The European Communities stated that bilateral discussions were held with Argentina where it was explained that these measures were adopted to prevent the introduction of two particular bee parasites that were of serious risk to the EC bee population. The recent interception of a contaminated shipment from Portugal justified the protective measures adopted by the European Communities. Although Argentina had submitted eight reports, the European Communities were still not satisfied that Argentina's measures were sufficient to guarantee a parasite-free status. The reports did not indicate how particular geographical and climatic conditions would permit regionalizing the province of Buenos Aires. The European Communities were not in a position at this time to relax controls on bee imports from Argentina. Information received by the European Communities indicated that exports of Argentine bees were not affected during the 2004 season. However, the European Communities were prepared to discuss the impact of its measures on international trade with Argentina.

Plant Health

19. Protected zones

Raised by:	Uruguay
Supported by:	Chile, Mexico, South Africa

Dates raised:	March 1997 (G/SPS/R/7, para. 60)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

260. Uruguay expressed concern about an EC decision to eliminate the criteria for protected zones within the European Communities, as this might result in a strengthening of phytosanitary requirements for the whole Community. This could also have negative consequences for citrus fruit exports from Chile. Delegations requested a clarification of the scientific basis for this proposal. The representative of the European Communities indicated he would forward the concerns to the relevant authorities. He clarified that according to the policy, access to the European Communities would depend on the conditions in the country of origin.

81. Wood packing material

Raised by:	Canada
Supported by:	Chile, Japan, Korea, Republic of, United States
Dates raised:	November 2000 (G/SPS/R/20, paras. 33-35)
Relevant document(s):	G/SPS/N/EEC/93
Solution:	
Status:	Not reported

261. Canada recognized that wood packing material was widely considered to be at risk of containing plant pests. However, it was used for a very large volume of products moving in international trade, and the proposed EC measure would cover 69% of Canada's exports to the EC. Furthermore, the IPPC was working on a comprehensive standard for all countries and all pests, to be completed by July 2002, it would be best for all countries to focus their efforts on developing an international standard and refrain from taking unilateral actions in this regard. The United States considered that it would be impossible to implement the certification and marking requirements within the time-period set out in the EC notification. Korea stressed the need for the European Communities to implement the least trade restrictive measure which would be effective, and in this respect to take into consideration the historic experience of trade without pest introduction, the processing of the packing materials, and the actual pest risks involved.

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

98. Restrictions on Egyptian potatoes

Raised by:	Egypt
Supported by:	
Dates raised:	July 2001 (G/SPS/R/22, paras. 125-126)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

263. Egypt expressed concern that EC measures against imports of Egyptian potatoes, allegedly as protection against the disease Pseudomonas solanacearum, severely restricted imports. Importation of Egyptian potatoes was prohibited unless they originated from agreed pest-free areas, and could be suspended if five interceptions of the bacterium occurred during the 2000-2001 import season. Egypt believed that these measures might not be in accordance with the relevant provision of the SPS Agreement and the GATT 1994, and had prepared questions for the European Communities. The European Communities indicated that the questions would be answered, and clarified that Egyptian potatoes received special treatment in the European Communities. Imports were allowed until the fifth detection of brown rot, which was a disease on the quarantine lists of IPPC and EPPO, while the normal EC standard prohibited imports after one detection. The special treatment had been granted in consideration of Egypt's special efforts to control the disease. The European Communities had received and was studying a document from Egypt containing a contingency plan for brown rot potatoes. Egypt had also requested determination of new free areas for export for the next season, and the request was being considered.

108. Cut flowers

Raised by:	Ecuador, Israel
Supported by:	Kenya
Dates raised:	October 2001 (G/SPS/R/25, paras. 45-48), November 2002 (G/SPS/R/28, para. 179), April 2003 (G/SPS/R/29, paras. 94-96)
Relevant document(s):	G/SPS/N/EEC/131, G/SPS/GEN/278
Solution:	
Status:	Not reported

264. Ecuador indicated that it had submitted a list of questions regarding the scientific grounds for the EC measure on cut flowers, the risk analysis, the methods to be used at entry ports, special treatment for developing countries, and possible alternative measures. Israel expressed concern over changes in inspection procedures that could detrimentally affect deliveries to its major export market. Kenya asked to receive a copy of the EC response to Ecuador's questions. The European Communities explained that the notification covered four harmful non-native organisms that were regularly intercepted on certain commodities including cut flowers: Amauromyza maculosa, Bemisia tabaci (non-European populations), Liriomyza sativae and Thrips palmi. At present, most cut flowers were not subject to plant health checks, but it appeared they were a pathway for the organisms in question, and control measures needed to be strengthened. To assess the comments made by Members, the proposed date of entry into force of the draft amended regulation had been deferred.

265. In November 2002, Israel expressed concern with EC Regulation 2002/36/EEC. While Israel appreciated that the European Communities had modified and delayed the entry into force of the proposed revision until April 2003, Israel was of the view that until the European Communities had finalized its pest risk assessment the new regulation should be a temporary, not a permanent, measure. Israel was further concerned that the European Communities was not taking measures to control pests already established in the EC member States from spreading to new areas, and requested consultations with the European Communities and other interested Members. Kenya also expressed hope that a solution would be found to the problem. The European Communities replied that the question was complex and went beyond a simple matter of the use of the precautionary principle. The ambitious pest eradication measures of the European Communities should not be undermined by imports. The European Communities agreed to bilateral consultations with Israel and Kenya.

266. In April 2003, Israel noted that EC notification G/SPS/N/EEC/131 concerned an amendment to regulation 2000/29/EC which came into force on 1 April 2003, and might have significant effects on the export of plant products from a number of Members. At bilateral consultations with the European Communities in March 2003, Israel expressed concerns regarding differentiation between European and non-European varieties of Bemisia tabaci and the existence of the non-European variety in some EC member States. Israel was in the process of analyzing the two pest risk analyses produced by the European Communities. Kenya stated it shared Israel's concerns with regard to unnecessary delays and adverse effects on cut flowers exports. Bilateral consultations with the European Communities on technical assistance for capacity building had not progressed as desired, although Kenya was still hopeful of an amicable solution.

267. The European Communities recalled that the measures had been enacted after constant interceptions of pests on products like fresh flowers led EC member States to review their protective measures. The proposed measures were notified to the WTO on 19 July 2001 and were to take effect on 1 January 2002. However, the European Communities had postponed entry into force until 1 April 2003 after consideration of the difficulties faced by certain exporting countries. Nevertheless, the European Communities had a responsibility to maintain its appropriate level of protection and could not indefinitely postpone the implementation of these measures. The European Communities had taken all necessary measures to avoid any breakdown to trade and offered to hold bilateral consultations on the matter.

109. Phytosanitary regulations (Canary Islands) – Maintained by Spain

Raised by:	Argentina
Supported by:	
Dates raised:	October 2001 (G/SPS/R/25, paras. 97-98), March 2002 (G/SPS/R/26, para. 42)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

268. Argentina expressed concerns about the difference between phytosanitary regulations in the Canary Islands and the European Communities, particularly as regarded apple and pear imports. As Argentina had demonstrated the equivalence of its measures in a communication to the EC representative in March 2001, there seemed to be no reason to prohibit exports of apples and pears to the Canary Islands. Argentina questioned why the Canary Islands had been exempted from the scope of EC Directive 2029, and asked for a probable date for the implementation of this regulation.

Argentina requested the acceptance of the equivalent measures proposed in March. The European Communities stated that it would provide Argentina with a bilateral reply in due course.

269. In March 2002, Argentina stated that certain points had been cleared up in bilateral consultations with the European Communities and Spain and that any further progress would be reported to the Committee.

199. Deviation from international standard for wood packing material

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

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

271. New Zealand stated that countries or regions should not adopt unilateral measures for wood packing material that would cause the disruption of the global implementation of ISPM 15. However, there might be technical justifications for requiring bark-free ISPM 15 compliant wood packing material. Canada shared the concerns of the United States on the importance of achieving harmonization. ISPM 15 allowed for the introduction of debarking requirements only where it could be scientifically justified. The issue of debarking was under review by the international forestry quarantine research group. The European Communities and those countries introducing debarking requirements were requested to reconsider their measures until the completion of the international review. China, Mexico and the Philippines shared the concerns of the United States and urged Members not to apply measures in excess of ISPM 15 in the absence of any scientific justification. Chile stated that its measures were under public consultation and it welcomed comments from Members.

272. The European Communities stated that EC Directive 2000/29 established protective measures against the introduction and spread of harmful organisms to plant and plant products into the European Communities. These measures were notified on 10 November 2003 and would enter into force on 1 March 2005. There was some flexibility in the requirements for markings as specified in Annex 2 of ISPM 15 and in the conditions required for dunnage. For wood packing material manufactured, repaired or recycled before 28 February 2005, the requirements for the markings would not come into effect until 31 December 2007. The requirements for dunnage (except wood less than 6 mm thick) and processed wood would not come into effect until 31 December 2007. These products could be made

from debarked wood that was free from pests. These requirements were included to ensure protection against future infestation or re-infestation once treatment had been completed. The current regulations were being considered by EC authorities in Brussels and the Committee would be informed of any changes.

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

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

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

276. The European Communities recalled that the European Commission had notified the measure to the SPS Committee almost one year before its adoption by the European Council (G/SPS/N/EEC/221 and Add.1-3; G/SPS/GEN/556). Although the European Communities was satisfied with the scientific basis for the debarking requirement of Directive 2004/102/EC, it had postponed its entry into force as a consequence of the numerous comments received from several Members with regard to the potential for very serious disruption of trade, in order to review and strengthen its scientific justification. The European Commission was currently putting together a technical dossier with the intention of presenting it to the IPPC International Forestry Quarantine Research Group in November 2005.

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

278. The European Communities clarified that the implementation of ISPM-15 was not postponed, but only the debarking requirement This postponement decision resulted, in part, from previous

discussions in the SPS Committee about the potential serious disruption of trade and the need to convince trading partners of the scientific and technical basis for this requirement.

209. Plant health directive

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

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

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

Other concerns

110. Agricultural biotechnology approval process

Raised by:	United States
Supported by:	Argentina, Australia, Canada, Philippines
Dates raised:	October 2001 (G/SPS/R/25, paras. 102-105), March 2002 (G/SPS/R/26, paras. 33-35), June 2002 (G/SPS/R/27, paras. 56-57), November 2002 (G/SPS/R/28, paras. 69-72); WT/DS291/R, WT/DS292/R, WT/DS293/R
Relevant document(s):	Raised orally
Solution:	Dispute settlement. Panel established August 2003. Panel report adopted on 21 November 2006
Status:	Partially resolved

281. The United States expressed concern regarding the lack of a functioning approval process in the European Communities for agricultural biotechnology products. Since 1998, a de facto moratorium on approval of biotechnology products had been in place. The United Stated believed that under the SPS Agreement the European Communities was obligated to have a functioning approval

process and decisions on pending applications should not be delayed. The United States urged the European Commission to restart the approval process as soon as possible. Canada was concerned that the European Communities was fundamentally altering the regulation of agriculture and food products to discriminate on the basis of how a product was produced rather than the product's characteristics. Canada also considered the proposed new EC regulations to be arbitrary, as they required labelling for highly refined products, such as oil that did not contain detectable DNA or protein, while not requiring similar controls on products that could present equal risk but were produced with other methods of development such as mutation breeding or mutagenesis. Moreover, the proposed regulations discriminated against products produced from genetically modified products, but not against products produced with genetically modified organisms such as cheese and wine. Canada argued that the proposed regulations were not commensurate with the risks and lacked scientific basis. Furthermore, the proposed regulations were fundamentally unworkable, as demonstrated by the one per cent threshold for the adventitious presence of GMOs.

282. The European Commission reaffirmed its interest and positive actions aimed at allowing the authorization procedures to continue. The recent meeting of the European Environment Council had started a very important discussion on proposals presented by the Commission to restart the authorization procedure.

283. In March 2002, the United States reported that no progress had been made on the EC approval system despite statements by various Commission officials. The de facto moratorium had resulted in the loss of over $200 million per year in US agricultural exports. New information given by Commission officials in February 2002 that the approval process would be restarted later in 2002 was welcome. Frustration in US commercial and political circles continued to increase. While the United States welcomed the establishment of the European Food Safety Authority, this did not address the fundamental problem of individual EC member States holding the approval process hostage to political concerns, with disregard for science and sound regulatory decision-making. Canada supported the US comments and noted that the March 1998 EC moratorium represented a de facto ban on a wide range of products. As such it violated not just the SPS Agreement, but also Article XI of the GATT. Argentina echoed the concerns expressed by the United States and Canada.

284. The European Communities noted the absence of procedures at the international level for approval of these types of products. The European Communities was following closely the work of the Codex ad hoc Taskforce on Biotechnology. Considerable efforts had been made to put together a consistent body of legislation to set up an authorization procedure for products resulting from biotechnology, with the aim of giving the producer legal certainty and transparency. The newly established EC Food Safety Authority was responsible for risk assessment and risk communication, but further time was needed to complete work by the European Parliament and the member States.

285. In June 2002, the United States indicated their frustration with the situation and noted that it was considering what steps to pursue. Canada observed that the EC moratorium essentially operated as a ban on imports of certain products for over four years, without any scientific basis. The moratorium resulted in trade disruptions and discrimination based on production methods without regard to the assessment of risks. Canada considered the EC moratorium to be inconsistent with the SPS Agreement and the GATT, and requested the European Communities to put in place a science-based approval process, as well as to consider alternative measures. The European Communities replied that the matter was following political procedures as previously described. At this time, the European Parliament was considering the matter, and the Council of Ministers should examine the documents in the coming months. Internal procedures had to be followed to apply the proposed Directive.

286. In November 2002, the United States stated that the EC moratorium had resulted in approximately 1 billion dollars loss of US exports to the European Communities. Even senior

European Commission officials had publicly stated that the moratorium was illegal. The United States indicated that despite the recent adoption of EC Directive 01/18, the moratorium remained in place and trade continued to be blocked. The United States was of the view that the Commission had the authority and the power to act in the face of this illegal moratorium and it had chosen not to do so. The Commission's failure to take action on this issue was a matter of growing concern to the United States. Canada shared the concerns expressed by the United States and regretted the inability of the European authorities to take steps to ensure that EC member States met their SPS obligations. Canada called upon the European Communities to lift the moratorium as soon as possible.

287. Australia supported the views expressed by the United States and Canada about the lack of scientific basis for the EC moratorium. Australia was also concerned about the EC related proposals on genetically modified food and feed, and the traceability and labelling of genetically modified organisms (GMOs). Australia requested further information as to whether the European Communities had conducted a science-based risk assessment for its traceability regulations or based its measure on an international standard. The European Communities had confirmed in their previous responses that the research undertaken had confirmed that those GM foods and GM plants and derived products so far developed and marketed following usual risk assessment procedures had not shown any new risk to human health or the environment, beyond the usual uncertainties of conventional plant breeding, or risks that were likely to put in danger the chosen level of health or environmental protection in the European Communities. Given this explanation, Australia requested further clarification as to how, in the absence of an identifiable risk to human health, the proposed traceability system met SPS requirements.

288. The Philippines shared the concerns expressed by the United States and reiterated his country's position regarding traceability of GMOs. The Philippines noted that the European Communities had failed to demonstrate any scientific evidence that GMOs were not as safe as their conventional counterparts, and that there were not less trade restrictive measures available to manage the risk.

289. The European Communities noted that the Commission and the EC member States remained determined to put in place a regulatory framework to allow GMO and GM products to be marketed freely within the European Communities and noted that the progress had been made in that respect. The European Communities requested patience and understanding on this very sensitive dossier which was being dealt with at the highest level within the European Communities.

GUATEMALA

CONCERNS RELATED TO MEASURES MAINTAINED BY GUATEMALA

Plant Health

211. Restrictions on the transit of avocados

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

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

HONDURAS

CONCERNS RELATED TO MEASURES MAINTAINED BY HONDURAS

Food safety

9. Zero-tolerance for salmonella in imported poultry products – Maintained by Chile, Czech Republic, El Salvador, Honduras and Slovak Republic [See Item 9, page 22]

Animal Health and Zoonoses

145. Import restrictions on chicken meat imports

Raised by:	Costa Rica
Supported by:	Argentina, Chile, Thailand
Dates raised:	November 2002 (G/SPS/R/28, paras. 22-27), April 2003 (G/SPS/R/29, paras. 63-64)
Relevant document(s):	G/SPS/GEN/347/Rev.1, G/SPS/GEN/362, G/SPS/GEN/363, G/SPS/N/HND/3, G/SPS/GEN/347/Rev.1 and Add.1
Solution:	
Status:	Not reported

291. Costa Rica reported that in March 2002, Honduras had applied import restrictions on poultry meat from Costa Rica, admitting imports of poultry meat only from countries that were free from avian influenza, avian infectious laryngotracheitis, Newcastle disease and avian salmonellosis. Costa Rica recognized Honduras' efforts to improve its sanitary situation, but questioned whether the measure was scientifically justified and whether Honduras had carried out a relevant risk analysis. In this regard, it would be to the benefit of all if Honduras shared its scientific evidence with other members of the organization. Honduras was trying to reverse the burden by insisting that Costa Rica demonstrate its disease free status regarding these four avian diseases. Costa Rica's avian health status was in line with the parameters recognized by the OIE, and its poultry meat exports did not constitute a risk for the avian health status of Honduras. Costa Rica requested Honduras to respond to the questions contained in G/SPS/GEN/347/Rev.1 and requested that Honduras lift the measure. Argentina, Chile and Thailand supported the concerns expressed by Costa Rica. Chile requested information from the OIE on this issue, in particular concerning standards for the transmission of different avian diseases through fresh poultry meat. Chile also requested a copy of the risk assessment carried out by Honduras.

292. Honduras explained the background to his country's decision to impose restrictions on chicken meat imports from Costa Rica. The Agriculture and Livestock Secretariat had developed a national programme for the prevention, control and eradication of avian diseases, including avian influenza, avian infectious laryngotracheitis, Newcastle disease and avian salmonellosis. This

programme had been notified to all WTO members (G/SPS/N/HND/3). In October 2001, Honduras had notified that it had achieved free status for the four avian diseases mentioned above. Honduras had requested that Costa Rica, as well as other countries, provide the necessary documentation that guaranteed equivalence between the exporting country's avian health status, as well as access for technical experts to carry out the relevant inspections. His authorities had not been able to determine that the poultry health programmes of Costa Rica were equivalent because they had been unable to carry out the relevant inspections and obtain the necessary technical information requested from Costa Rica. The scientific evidence requested by Costa Rica was contained in the OIE Bulletin, N°6, pages 810 to 815, and Honduras welcomed the updating of standards by the OIE.

293. The representative of the OIE stated that OIE standards existed for avian infectious laryngotracheitis, avian salmonellosis, and Newcastle disease, and for the highly pathogenic form only of avian influenza. The OIE standards for avian infectious laryngotracheitis and avian salmonellosis contained recommendations only for live birds, for day-old chicks, and for hatching eggs but no recommendations for poultry meat. In other words, at present there were no official OIE standards for poultry meat for these two diseases, however these chapters had not been reviewed for some time. The lack of a standard concerning poultry meat could mean either that there were no risks associated with trade in poultry meat for these diseases, or that the OIE had not come out with a recommendation on poultry meat which meant that trading partners would be expected to negotiate between themselves using risk analysis in order to reach science based conclusions. In the absence of an official OIE standard, the OIE had replied to a request from the Director of Animal Health in Costa Rica that there was no scientific evidence indicating that avian infectious laryngotracheitis or avian salmonellosis could be transmitted through poultry meat. This was not an official OIE standard but a scientific opinion from the OIE. If there was sufficient trade disruption due to the lack of an OIE standard for poultry meat for these diseases, the OIE would include updating these standards in its future work programme.

294. In April 2003, Costa Rica noted that bilateral consultations were progressing (G/SPS/GEN/347/Rev.1/Add.1). Honduras reported that after the November 2002 meeting of the SPS Committee, an agreement was reached on how to progress towards re-establishing trade of poultry meat and products from Costa Rica.

INDIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDIA

Food safety

200. Ban on food grade wax

Raised by:	United States
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 38-39)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

295. The United States stated that on 13 August 2003, India's Ministry of Health and Family Welfare published gazette notification GSR 656 amending the 1955 Prevention of Food Adulteration

Act by prohibiting the sale of fresh fruits and vegetables coated with waxes, mineral oils and colours. This amendment threatened US horticultural exports to India and was not notified to the WTO. The new requirements exceeded those of the Codex and were adopted without scientific justification. Furthermore, the long shipping journey to India's ports meant that the export of US fruits and vegetables without waxing was not a viable alternative. Waxing was an essential treatment required to maintain shelf life. India was requested to notify this measure to the WTO so that Members could have the opportunity to comment on the regulations.

296. India replied that the measure in question had earlier been published in draft form in the Ministry of Health notification GSR 852 on 30 December 2002, inviting comments from all interested parties. The current measure was in force due to increasing incidents of the use of unsafe wax and adulteration of food with harmful chemicals. This was also a problem with domestic food traders and vendors. This issue of wax coating of fruits and vegetables was being examined by an expert group under the auspices of the Ministry of Health.

240. Biotech labelling and import approval process regulations

Raised by:	United States
Supported by:	Argentina, Brazil, Canada
Dates raised:	June 2006 (G/SPS/R/42, paras. 15-16)
Relevant document(s):	G/TBT/N/IND/17, G/TBT/N/IND/12
Solution:	
Status:	Not reported

297. In June 2006, the United States referred to India's notifications to the TBT Committee affecting trade in biotechnology products. The Ministry of Commerce and Industry's "Supplement to the Government of India's Foreign Trade Policy, Condition 18" (G/TBT/N/IND/17) would require that its Genetic Engineering Approval Committee (GEAC) provide pre-approval of imports. The Ministry of Health and Family Welfare's proposed mandatory labelling requirement for biotechnology products (G/TBT/N/IND/12) would also require pre-approval by the GEAC. The United States requested that these measures be notified to the SPS Committee to allow an opportunity for comments and that their implementation be delayed until a number of issues could be resolved. In particular, the United States was concerned about: the lack of clarity with regard to the scope and process of the proposed measures and their scientific justification; what procedures would be in place for pre-approval of imports and once approved; what procedures would be in place domestically and at the ports for enforcement; and what was the scope and the justification to require that the process of production be included on the label. Without clarification of these questions, US exports to India would be negatively affected.

298. Argentina, Brazil and Canada shared the concerns raised by United States and asked that Members be given an opportunity to comment on the measures before their adoption. Canada indicated that it would provide comments on the relevant TBT notifications and also invited India to notify its measures to the SPS Committee and take into account comments of other Members.

299. India took note of the concerns raised and stressed that the proposed regulation on pre-approvals was not new as it had already been notified in 1989. The purpose of the current proposal was to make the requirements mandatory. The objective of the mandatory labelling requirement was to provide correct information to consumers about the nature of the food. India was committed to following the transparency requirements and would consider notifying the relevant measures to the

SPS Committee and would take into account comments received before the measures entered into force.

Animal Health and Zoonoses

61. Import restrictions on bovine semen

Raised by:	Canada, European Communities
Supported by:	United States
Dates raised:	March 1999 (G/SPS/R/14, para. 19, G/SPS/R/18, paras. 23-25), June 2000 (G/SPS/R/19, paras. 24-25), November 2000 (G/SPS/R/20, paras. 18-22), March 2001 (G/SPS/R/21, paras. 40-43), July 2001 (G/SPS/R/22, para. 51), April 2003 (G/SPS/R/29, paras. 76-77)
Relevant document(s):	G/SPS/GEN/113
Solution:	Change of relevant regulations and expected solution reported in July 2001
Status:	Partially resolved

300. In March 1999, the European Communities indicated that bilateral contact with India regarding import restrictions on bovine semen had not been successful, and submitted a list of specific questions. In March 2000, the European Communities reported that no information had been received from India, although there had been some bilateral and multilateral contacts. India presented some information to the EC delegate at that time.

301. In March 2000, Canada expressed concern that India was banning imports of bovine semen from Canada because of BSE concerns, although Canada was BSE-free, and although BSE was not transmissible through semen according to the OIE. India clarified that the measure was a licensing process, not a ban, which had been imposed to avoid inadvertent introduction of BSE or scrapie into India. India had prepared a questionnaire for its trading partners and was planning to carry out a risk assessment based on the responses. The representative of India indicated that he would bring the Canadian concerns to the attention of his authorities in order to solve the problem bilaterally as soon as possible.

302. In June 2000, Canada informed the Committee that bilateral consultations had failed to resolve the matter, and that India continued to restrict Canadian exports of bovine semen despite (i) Canada being BSE-free, (ii) OIE confirmation that BSE was not transmissible through semen, (iii) the OIE specifically not calling for restrictions on trade in bovine semen, and (iv) the absence of a risk assessment to justify India's ban on bovine semen. Canada asked that India remove this restriction. India noted that recent bilateral consultations had been helpful and that efforts were being made to find a solution to the dispute.

303. In November 2000, Canada, supported by the European Communities, reiterated its concerns regarding India's BSE-related restrictions on bovine semen imports, despite Canada's BSE freedom, and despite agreement in the OIE and other veterinary bodies that BSE was not transmitted by semen. In September 2000, India had indicated that it intended to continue this unjustified prohibition, despite the lack of risk assessment for the measure. India reported that detailed bilateral consultations were ongoing. The Indian Animal Husbandry Commission had met on 11 September 2000 and had noted the findings of the EC Scientific Steering Committee (SSC) regarding the difficulty of making precise estimates of the risks of infectivity of various products including semen.

304. India further reported that it had sought detailed information from the OIE regarding the basis for determining that BSE was not transmitted by semen, as well as information on the criteria for determining if a country or zone was free from BSE. However, to date no reply had been received from the OIE.

305. The European Communities observed that India was referring to a scientific opinion which had been published in 1998, which had subsequently been modified through various meetings of the OIE. The representative of the OIE indicated that the issue of bovine semen had been examined on various occasions at the OIE, and the results of these examinations had been provided to India, however, the OIE would again send India all of the relevant information.

306. In March 2001, Canada and India announced that they had agreed to informal discussions under the SPS Agreement and hoped that the matter would be resolved soon. Canada recalled the OIE statement confirming that BSE could not be transmitted by semen (G/SPS/GEN/230). India stressed that it was not trying to give an unfair advantage to domestic producers. The socio-religious conditions related to the treatment of cows in India were such that India had to be extremely cautious. India asked Canada to cooperate with India's risk assessment, which would take at least another six months to complete. Canada questioned the need to carry out the risk assessment, since according to the OIE there was no risk of disease transmission through semen. India and Canada intended to raise the issue at the OIE.

307. In July 2001, Canada reported that it was engaged in bilateral consultations under the SPS Agreement with India. There had been certain positive developments and Canada hoped to quickly resolve the issue. India indicated that the relevant regulations had been changed, and that the changes would soon be notified.

308. In April 2003, Canada stated that although a successful conclusion had been reported to the Committee in July 2001, a further problem had been encountered and an import licence request was rejected by India due to some apparent connection between BSE and bovine semen. Canada questioned the scientific basis for the action and stated that the OIE's recommendations supported Canada's view. Canada requested that India remove this restriction. India agreed to convey Canada's concerns to the appropriate authorities.

62. Restrictions on imports of horses

Raised by:	European Communities
Supported by:	
Dates raised:	March 1999 (G/SPS/R/14, para. 20), October 2006 (G/SPS/R/43, paras. 22-24)
Relevant document(s):	G/SPS/GEN/112
Solution:	
Status:	Not reported

309. In March 1999, the European Communities indicated that trade in horses with India had been interrupted, although the necessary health guarantees had not been identified. Import restrictions were based on the presence of contagious equine metritis. The European Communities presented a series of questions to India, including a request for justification of India's measure which was more stringent than the OIE Code.

310. In October 2006, the European Communities again raised concerns regarding India's import conditions for live horses from some EC member States on the basis of Contagious Equine Metritis (CEM). India's requirements that allowed only for the importation of breeding horses from countries which had been free of CEM for a minimum of three years was not based on international standards and recommendations, in particular Article 2.5.1.1 of the OIE Terrestrial Animal Health Code which set conditions of live horses to be exported safely in respect of CEM. India had not provided any scientific justification for import requirements containing higher protection measures than reflected in international standards, and thus was not complying with Article 3.3 of the SPS Agreement. Despite numerous bilateral discussions on the issue during 2005 and 2006, no progress had been made. No response had been received to a document submitted by the United Kingdom in January 2006 with further scientific evidence that export of breading horses from that country posed no risk for the Indian equine population. The European Communities urged India to bring their import requirements for CEM in line with OIE recommendations.

311. India stated that it allowed the import of live horses, including breeding horses, under existing health protocols. Although it was free from CEM, India allowed imports of male horses less than seven years of age and female horses less than five years of age. India indicated that some CEM-positive countries in the European region were regularly exporting live horses to India. With regard to the OIE guidelines, consultation with the relevant technical experts was being done and a report on the issue was expected very soon. India was willing to discuss the issue bilaterally with the European Communities.

312. The European Communities stressed the fact that some EC member States were experiencing restrictions on the export of live horses to India, and welcomed the opportunity for further bilateral discussions.

Plant Health

186. Phytosanitary import restrictions

Raised by:	United States, European Communities
Supported by:	Canada, Chile, New Zealand, European Communities
Dates raised:	March 2004 (G/SPS/R/33, paras. 23-31), June 2004 (G/SPS/R/34, paras. 22-24), October 2004 (G/SPS/R/35, paras. 45-46)
Relevant document(s):	G/SPS/N/IND/12 and Add.1
Solution:	Amendments to Plant Quarantine Order 2003 regarding solid wood packaging
Status:	Partially resolved

313. The United States expressed concerns over India's new fumigation requirements which entered into force on 1 January and 6 February 2004. These regulations were not notified to the WTO until 4 March 2004 as G/SPS/N/IND/12 and Members did not have an opportunity to provide comments. With respect to almonds, phoshpine had been an effective treatment to control pests of concern to India prior to the imposition of the new regulations. This treatment was supported by scientific literature that had been presented to India for examination. India was requested to revise its measures accordingly. With regards to solid wood packing, India's measures deviated substantially from international standard ISPM 15, particularly in relation to requirements for physotsanitary documentation and the lack of scientific justification for treatment requirements. Under the new regulation, both the consignment and packing material were to be treated and by implication, untreated

consignments, or those without phytosanitary certification would not be allowed to enter India. Furthermore, India's requirement that packing material be treated with methyl bromide for 32 hours exceeded ISPM 15 requirement of 16 hours. India was requested to provide scientific justification for this divergence or revise its measures accordingly.

314. The European Communities rejected India's claim that these measures conformed to international standards and therefore did not have to be notified. The lapse of two months in notifying the WTO after implementation of the measures denied countries the opportunity to comment on them. The European Communities requested India to defer the implementation of the new measures until the normal 60-day comment period expired. Canada shared the concern about the lack of adequate comment period and stated that Canada became aware of the new requirements when its pulse exports to India were rejected. India had temporarily agreed to accept Canadian pulse shipments without fumigation until 30 April 2004. However, India's refusal to consider alternatives to fumigation treatment was unacceptable, given that Canada's climate made fumigation unnecessary. Furthermore, Canada had been free of the relevant pests for 20 years and had been shipping products to India for several years without problems. Canada urged India to use the least trade-restrictive measures as stipulated in the SPS Agreement. Chile and New Zealand shared the concerns expressed by the previous countries above, particularly those related to certification requirements and the lack of adequate comment period.

315. India explained that the Plant Quarantine Order was intended to simplify India's existing plant quarantine regime, which previously had multiple instruments, including the Destructive Insect and Pest Act of 1914 and Order 1989 regulating imports of cotton, plants, fruits and seeds into India. The new Order repealed and replaced these instruments and filled a gap in the old plant quarantine orders, particularly related to emerging global agricultural trade issues such as GMOs, germplasm, transgenic plant material, live insects, fungi and bio-control agents. The Plant Quarantine Order of 18 November 2003, came into force on 1 January 2004 and the application of some provisions deferred to 1 April 2004. The regulations were made available on the website immediately after its publication and a number of India's trading partners had sought clarification bilaterally. The Plant Quarantine Order was amended on 6 February 2004 to increase clarity and take account of Member's concerns.

316. With respect to the US concerns, phosphine fumigation was useful for quality control but was not an effective treatment against quarantine pests in almonds. Nevertheless, India agreed to examine the research papers presented by the United States and requested that Members send their comments on the issue. On the issue of solid wood packing, India required treatment of the whole consignment if it contained agricultural produce but would accept treatment according to ISPM 15 otherwise. Phytosanitary certificates were required if the exporting country had not followed ISPM 15 treatment requirements. With regards to Canada's concerns, the new Order contained a temporary provision for the relaxation of specific conditions if problems arose in the clearance of consignments. Canadian pulse consignments imported between 31 December 2003 and 30 April 2004 would be cleared and this decision was also extended to all trading partners. While the new regulations were based on scientific principles, India agreed to consider alternative measures proposed by Canada if they could be proven to be effective. India had notified the WTO of these measures on 4 March 2004 and the final date for comment was 30 April 2004.

317. In June 2004, the European Communities raised concerns about India's import restrictions related to plant quarantine. While India had amended the wood packaging part of these measures and brought them into line with international standards, concerns remained about a range of other existing measures that had negative trade impacts. India had not produced scientific information to justify these measures. The European Communities understood that according to India's regulatory approach in this area many types of products were banned before PRAs were conducted to determine if a ban was justified. Since no international standards existed for many of the banned products, India should conduct a PRA prior to implementing a measure as required by the SPS Agreement. Canada, New

Zealand and the United States echoed the EC concerns. Both Canada and New Zealand stressed that Members had not had an opportunity to comment on these measures, and indicated that their authorities were engaged in bilateral discussions with India to seek a resolution to this issue.

318. India stated that it had delayed implementation of these measures until the comments on G/SPS/N/IND/12 could be considered. The Ministry of Agriculture had also discussed the phytosanitary concerns of other Members on a bilateral basis, and in some cases had provided short-term solutions to the issues. For example, India had accepted all import consignments of plant and plant materials until 30 June 2004 to provide ample adjustment period to exporting Members. Some of the provisions of the Plant Quarantine Order 2003 had already been amended, including those on treatment of solid wood packaging materials, and these amendments had been notified to the Secretariat.

319. In October 2004, the United States recalled that India's requirements for methyl bromide fumigation for numerous products from the United States was raised in the last Committee meeting. The fumigation requirements were adopted in November 2003, but were notified only in January 2004, two months after the measure had come into force. Bilateral discussions were held with India where it was agreed that US almonds would be allowed under the previous import requirements until June 2005. Phosphine was a proven and effective treatment for quarantine and storage pests associated with almonds. Nonetheless, the United States was conducting further research to develop long-term solutions to address India's concerns. India replied that the United States had provided information and data on the efficacy of phosphine as a fumigant. However, until field data was available, US almonds would be allowed into India subject to fumigation at the port of entry.

Other concerns

192. Non-notification of various SPS measures

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

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

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

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

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

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

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

INDONESIA

CONCERNS RELATED TO MEASURES MAINTAINED BY INDONESIA

Food safety

146. Ban on hormones in animal production

Raised by:	United States
Supported by:	Australia, Canada, Mexico
Dates raised:	November 2002 (G/SPS/R/28, paras. 83-86)
Relevant document(s):	G/SPS/N/IND/17
Solution:	
Status:	Not reported

326. The United States indicated that the implementation of this regulation would effectively ban the use of several growth hormones and there was no scientific evidence to support this measure. US regulatory agencies had been conducting research since the 1950s on the use and safety of approved

growth hormones. A consensus had been reached regarding the safety of these hormones if used with good veterinary practices. The United States requested Indonesia to put forward scientific data in support of its proposed ban. In the event that no scientific data existed, the United States requested Indonesia to reconsider this proposal as soon as possible.

327. Canada, supported by Australia and Mexico, expressed concerns regarding Indonesia's apparent import ban on live cattle and beef derived from cattle treated with synthetic growth hormones. A number of questions surrounding the risk-based nature of these measures were highlighted, particularly given the precedence established in the WTO regarding measures prohibiting growth hormones. They requested Indonesia to indicate whether it had conducted a risk assessment and to provide the details of the risk based rational for its measures. The European Communities noted that there was a WTO finding on the issue and that it intended to bring its legislation into compliance with the ruling of the panel. Much work had been undertaken in this regard and the European Communities expected to soon be able to ensure that the EC ban was fully compatible with the WTO.

328. Indonesia noted that his country had not yet implemented the regulation, but had notified to Members the fact that they were going to amend the decree concerning classification of veterinary drugs. Although Indonesia had not yet banned hormone growth promoters, there were some reasons to believe that growth hormones could be hazardous to human health, due in part to the fact that developed countries' consumption patterns were different to those in Indonesia. Indonesia further noted that the use of hormone growth promoters in poultry had been banned internationally.

Animal Health and Zoonoses

111. FMD restrictions

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

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

330. In October 2003, Argentina recalled that Indonesian restrictions went beyond the OIE recommendations (G/SPS/GEN/240) and included products not affected by FMD, i.e., cereals. Argentina requested Indonesia to provide scientific evidence to justify the measures or else lift the measures. Argentina had provided documentation in an informal bilateral meeting with Indonesia and proposed a visit of experts to resolve the issue. Indonesia stated that FMD was a serious risk as

Indonesia was free of the disease. The ban was periodically evaluated and could be temporary. A visit by experts from Indonesia was being considered. Progress on this issue was being made in consultations with Argentina and the Committee would be informed.

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

332. In October 2004, Argentina reported that Indonesia continued to prohibit imports of Argentine beef. Indonesia was requested to comply with OIE recommendations or submit a risk analysis to justify its measures. Brazil shared Argentina's concerns. Indonesia had prohibited imports of soybean and soybean products from FMD-free areas with vaccination in Brazil. Indonesia's measures were inconsistent with OIE guidelines and recommendations and Article 6 of the SPS Agreement.

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

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

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

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

337. Indonesia clarified that it had a policy of maximum security for imported products of animal origin based on two criteria, animal health and veterinary public health. The overall objective was to maintain Indonesia’s status as a country free from all major diseases such as FMD and BSE, and to protect consumers' health and spiritual comfort through assuring the safety of animals distributed in Indonesia. Indonesia undertook on site reviews of potential exporters in order to collect direct and

detailed information as a prerequisite for import authorisation. In December 2005, Indonesia had notified Argentina of its intention to visit Argentina in order to undertake an on site review.

Plant Health

21. Fresh fruit and vegetables

Raised by:	Australia, United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 22)
Relevant document(s):	G/SPS/N/IDN/2
Solution:	
Status:	Not reported

338. Australia and the United States sought clarification with regard to the scope of the Indonesian regulation on fresh fruit and vegetables. In bilateral discussions with Australia, Indonesian authorities had referred to a problem arising from national practice, which precluded the circulation of draft regulations. The United States and Australia urged Indonesia to consider legislative adjustments to enable WTO Members to receive information on proposed measures sufficiently in time to be assessed. Australia appreciated Indonesian efforts to meet requests for additional information. Indonesia regretted that the draft regulation had not yet been finalized, but assured the Committee that a document containing detailed information about the proposed regulations would be provided in due course.

ISRAEL

CONCERNS RELATED TO MEASURES MAINTAINED BY ISRAEL

Animal Health and Zoonoses

55. TSE-related import restrictions of live cattle

Raised by:	European Communities
Supported by:	Switzerland
Dates raised:	November 1998 (G/SPS/R/13, paras. 35-36)
Relevant document(s):	G/SPS/N/ISR/2
Solution:	
Status:	Not reported

339. The European Communities said that it was not entirely clear how Israel categorized countries' BSE status, and that the notification did not provide sufficient information. It listed a number of requirements which appeared not to be justified, and were not based on OIE recommendations. The European Communities requested an explanation of the notified legislation, and submitted a number of questions for written comment by Israel. Israel requested the EC questions in writing..

232. Import restrictions on EC beef due to BSE

Raised by:	European Communities
Supported by:	
Dates raised:	October 2005 (G/SPS/R/39, paras. 41-42), February 2006 (G/SPS/R/39, paras. 41-42), March 2006 (G/SPS/R/40, paras. 44-45)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

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

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

342. In March 2006, the European Communities reported that Israel continued its restrictions on beef from EC member States. However, Israel's veterinary services had indicated its willingness to address this issue on the basis of further OIE developments during the coming months, and the European Communities would inform the SPS Committee of the final results of its bilateral consultations with Israel.

343. Israel noted that in general imports of beef and bovine products were permitted, provided there was no record of BSE in the exporting country and that the import was approved by the Israeli veterinary service.

JAPAN

CONCERNS RELATED TO MEASURES MAINTAINED BY JAPAN

Food safety

147. Regulation on food additives

Raised by:	European Communities
Supported by:	United States
Dates raised:	November 2002 (G/SPS/R/28, paras. 35-37)

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

344. The European Communities indicated that a list of substances, including food additives, aromas, food ingredients and extract solvents, were not formally authorized by Japanese law, which could constitute barriers to food product exports to Japan. Some of the additives had already been authorized by Japan for other purposes. The European Communities requested Japan to approve those substances that had been evaluated by the European Communities on scientific grounds, and noted that all of the substances had been evaluated at the international level by the scientific committee of the Codex Alimentarius Commission. The European Communities reported that a number of bilateral meetings had already taken place. The United States shared the concerns expressed by the European Communities and urged Japan to consider expedited approval for these food additives that were commonly used and considered safe.

345. Japan stated that it had recently enacted a new policy for evaluating the safety and the necessity of the use of food additives and for authorizing their use. Japanese authorities were putting together a list of food additives that were considered safe and necessary to use for certain foods. The use of food additives varied from country to country depending upon customs and habits, and a number of food additives authorized by the European Communities were not authorized in Japan and vice versa. Japan suggested further bilateral consultations on this issue.

346. In January 2005, Japan reported that food additives, including flavouring agents were permitted to be used only when designated by the Minister of Health, Labour and Welfare under the Food Sanitation Law as substances that were unlikely to cause a health hazard. With regards to the use of unauthorized food additives, an application must be filed with the Minister.

347. Furthermore, since 2002, Japan had given priority to certain food additives for authorization, including those proposed by the European Communities and that were also proven safe by the FAO/WHO Joint Expert Committee on Food Additives. The Minister had taken the necessary procedures to hear the opinions of the Food Safety Commission (FSC) on 29 additives, including 9 flavouring agents, for which full documentation had been prepared. Of the 29 substances, 4 additives (including 3 flavouring agents) were designated as authorized food additives in December 2004. This information was provided to the European Communities at the Japan-EU Regulatory Reform Dialogue and at other opportunities. In order to expedite and facilitate Japanese evaluations of the substances, the European Communities were requested to provide the documentation and literature supporting EC scientific evaluation of the substances.

148. Amendment of the food sanitation law

Raised by:	China
Supported by:	Korea, Republic of
Dates raised:	November 2002 (G/SPS/R/28, paras. 40-42)
Relevant document(s):	G/SPS/N/JPN/84, G/SPS/N/JPN/86
Solution:	
Status:	Not reported

348. China raised concerns over Japan's amendment of the food sanitation law and the procedures followed. Japan's emergency notification (G/SPS/N/JPN/84), issued on 18 July 2002, indicated that the amendment prohibiting the sale, manufacturing and import of specific food, food additives, apparatus and container/packages when considerable amounts of foods were assumed not to be in conformity with the provisions of the Food Sanitation Law would enter into force on 7 September 2002. A related emergency notification had been made on 7 September 2002 (G/SPS/N/JPN/86). China questioned the appropriateness of the use of emergency notifications, as Members could not comment before the measure had been enforced. China requested Japan to provide the scientific evidence, including a risk analysis, that supported the measures taken. Korea indicated that it had requested information on Japan's amendment on 3 September 2002, and were awaiting a response.

349. Japan indicated that they had already received comprehensive comments from China on the amendment of the food sanitation law within the framework of the Trade Policy Review of Japan. The use of the emergency notifications were in accordance with the recommended procedures for transparency, however, Japan was prepared to consider the matter further on a bilateral basis.

350. In February 2005, Japan reported that it had responded to China's comments on notification G/SPS/N/JPN/86 in November 2002 and had not since received any objections from China.

178. Revision of standards and specifications for food and additives

Raised by:	China
Supported by:	
Dates raised:	October 2003 (G/SPS/R/31, paras. 45-46)
Relevant document(s):	G/SPS/N/JPN/104
Solution:	
Status:	Not reported

351. China expressed concerns over Japan's maximum residue levels (MRLs) for several pesticide residues, in particular MRLs for chlorpyrifos. The limits for chlorpyrifos in spinach and other products were not science-based.

352. Japan noted that answers to questions raised by China had been provided through the Japanese Embassy in China. With regards to the MRL for spinach, this product was not included in the notification. The MRL for the 15 pesticides were based on toxicological risk assessments including residue data and were no more stringent than Codex standards.

353. In February 2005, Japan reported that it had not received any objections from China since providing responses to China's concerns in October 2003 and participating in the Japan-China bilateral consultations in December 2004.

201. Standards and specifications for food additives (boscalid)

Raised by:	China
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 70-71)

Relevant document(s):	G/SPS/N/JPN/121
Solution:	
Status:	Not reported

354. China raised concerns over Japan's notification G/SPS/N/JPN/121 on proposed MRLs for the fungicide boscalid. The products affected by the proposed MRL included products of animal origin although the use of boscalid was applicable to only a few products such as soybean and fruits. Furthermore, MRLs for boscalid varied for different products, e.g., the MRL for strawberries was 15 ppm while the MRL for other products was 3.5 ppm. Japan was requested to explain these differences in MRLs and to provide scientific evidence to justify the establishment of MRLs for boscalid.

355. Japan stated that its measures were based, in part, on the standards adopted by the US Environment Protection Agency (EPA) for boscalid, including the products that were affected by the MRL. As boscalid was a newly registered agricultural chemical in Japan, MRLs needed to be established to ensure food safety. Domestic data was also taken into account in establishing the MRL and this explained why there were some differences in the MRLs between Japan and the United States.

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

Raised by:	China, United States
Supported by:	Australia, Philippines
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 19-21), October 2005 (G/SPS/R/39, paras. 49-51 and 61-63), February 2006 (G/SPS/R/39, paras. 49-51 and 61-63), June 2006 (G/SPS/R/42, paras. 22-24)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

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

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

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

359. China requested Japan to grant at least an additional 18 months for developing country Members to adjust the application of agriculture chemicals, conduct training and education activities, provide guidance to farmers and make laboratory preparations. Although Japan argued that it had taken three years to prepare the draft of its positive list system and had already notified this three times, each time the number of MRLs and product coverage varied. A two-year adaptation period was appropriate to allow the decline of pesticide residues in soil and air after their use had ceased. Moreover, considering the number of MRLs identified, a phased introduction of the new MRL requirements was necessary. Furthermore, Japan had published only some of the testing methods used to develop the MRLs, and many of these testing methods were only illustrated by flow charts. China requested that Japan notify in advance all available and newly developed testing technology and methods for all provisional MRLs listed in the positive list system, and provide a 60-day comment period and a 6-month adaptation period.

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

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

362. In June 2006, China noted that Japan's positive list system for agricultural chemical residues in food had entered into force on 29 May 2006. While recognizing Japan's right to revise its residue standards to safeguard the health of its citizens, China was concerned since Japan was the largest importer of food from China. Japan had only published testing methods for 553 agricultural chemicals; testing methods for another 200 chemicals were still lacking, which could seriously affect efforts of developing country Members to study these methods. In addition, Japan was not following the Codex guidelines for judging test results. China requested Japan to publish all testing methods, notify them, offer a 60 day comment period, provide a six month transitional period before they entered into force and offer technical training and education to China.

363. China further asked Japan to explain why it had started implementing the positive list system in December 2005 by requiring that rice be tested according to the new MRLs, well ahead of the May 2006 implementation date. This had raised costs for Chinese rice exports and interrupted trade, since farmers had no time to adjust their chemical use. From January to June 2006, on three occasions,

China had been given only two weeks to comment on certain MRLs, which was too short. China requested an explanation of the relationship between these MRLs and the positive list system. In China's view, these changes should be notified to the WTO. Finally, China noted that both the Japanese and English versions of the positive list system contained many editing errors and that therefore there were constant changes and asked Japan to provide a clear and comprehensive list of MRLs for agricultural chemicals at an early date. Previous efforts to resolve the problems had not succeeded, and China urged Japan to address China's concerns in a scientific way.

364. Japan confirmed that its positive list system for agricultural chemicals including pesticides, veterinary drugs and feed additives had taken effect on 29 May 2006. For the establishment of provisional MRLs, Japan had taken into account Codex standards; existing residue levels for pesticides set under the Agricultural Chemicals Regulation Law or limits of determination for veterinary drugs set under the Pharmaceutical Affairs Law; and MRLs set by other countries where residue standards were based upon the toxicological data required by the Joint WHO/FAO Expert Committee on Food Additives (JECFA) and the Joint WHO/FAO Meeting on Pesticide Residues (JMPR). Since these MRLs had been established through a globally accepted approach, Japan believed them to be consistent with WTO principles. Japan used a toxicological threshold of 1.5 μg/day to determine the uniform limit, based on JECFA, US FDA and JMPR evaluations. The uniform limit had been set at 0.01 ppm, based on the food consumption patterns of the Japanese population. Japan had published analytical methods for 623 substances and would continue to finalize and publish the remaining analytical methods for other substances. When Japan newly established or amended standards, including MRLs, under the Food Sanitation Law, these were explained to foreign embassies in advance of WTO notification. After this meeting, comments were requested within two weeks, after which the notification was sent to WTO, with a 60-day comment period.

Animal Health and Zoonoses

34. Measures regarding FMD

Raised by:	Argentina, European Communities
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev.1, para. 46), March 2002 (G/SPS/R/26, paras. 15-17)
Relevant document(s):	G/TBT/Notif.97.357
Solution:	
Status:	Not reported

365. Argentina raised questions on the notified TBT measure, which authorized imports of FMD inactivated vaccine (but only the O type of FMD inactivated virus), and exempted traders from undergoing the usual approval procedures. Three countries were designated as suppliers: Germany, the Netherlands and the United Kingdom. Argentina sought clarification regarding (a) the current FMD-status of Japan since the decision to import FMD vaccines took effect; (b) the criteria used to designate only three sources of supply; (c) whether Japan considered itself a "zero-risk" country and whether a risk assessment had been carried out in support of this "zero-risk" status; and (d) since Argentina was declared free of FMD with vaccination by the OIE, how Japan viewed its current policy not to import Argentine meat. Japan explained that the notified measure was an amendment to the approval procedures regarding the import of vaccines for emergencies. It was a precautionary measure following the outbreak of FMD in Chinese Taipei in March 1997. Argentina indicated it would provide its questions in writing to Japan.

366. In March 2002, the European Communities stated that slow administrative procedures had caused unjustified disruptions in the trade of several EC member States with Japan. In spite of the formal recognition by the OIE of EC member States as FMD free, Japanese procedures for recognizing the FMD free status of these countries dragged on. The European Communities noted that they had done everything possible to meet the Japanese requirements and expressed disappointment that Japan would not begin the re-opening process until after the official FMD free declaration by the OIE on 19 September 2001. The EC noted that the re-opening process itself was extremely cumbersome and combined with delays in organizing a Japanese inspection mission, the effect was unnecessary delay in reopening of the market. Furthermore, the European Communities felt that the use of questionnaires was only justified at the time of the outbreak, and that import requirements should be made clear from the outset. The representative of the European Communities requested an indication of when Japan would recognize the EC FMD disease-free status. Japan noted that the risk assessment for FMD had been delayed due to late responses from France, Ireland and the Netherlands.

99. Restrictions on importation of sugar cane top from Indonesia

Raised by:	Indonesia
Supported by:	
Dates raised:	July 2001 (G/SPS/R/22, paras. 32-35), October 2001 (G/SPS/R/25, paras. 24-25), November 2002 (G/SPS/R/28, paras. 185-186), June 2003 (G/SPS/R/30, paras. 57-58)
Relevant document(s):	G/SPS/GEN/266, Annex 1, G/SPS/GEN/240
Solution:	
Status:	Not reported

367. In July 2001, Indonesia raised concerns regarding Japan's restrictions on the importation of sugar cane top for fear of contamination with FMD, although Indonesia was recognized as free from FMD. Indonesia had cooperated with Japan's assessment of the FMD situation in Indonesia, but was concerned about delays and information requirements. Indonesia intended to provide the information, but requested a clear schedule to ensure a speedy solution. Indonesia and Argentina requested the OIE to explain whether these restrictions could be justified. Japan replied that it had notified the animal health authorities in Indonesia of the additional information needed for the analysis and was waiting for Indonesia's response. The OIE confirmed that Indonesia had been recognized as free from FMD without vaccination (G/SPS/GEN/266, Annex 1). The International Animal Health Code contained a list of products which could transmit FMD, and the list did not include sugar cane (G/SPS/GEN/240). The Code considered that other products, such as cereals, fruits, vegetables and roots did not present a risk.

368. In October 2001, Indonesia reported that in addition to informal bilateral consultations, Indonesia had also provided detailed information requested in a questionnaire from Japan. Indonesia was willing to furnish all necessary documentation, as any protraction of this problem would have detrimental effects on the Indonesian economy. Japan stated that at a bilateral meeting certain misunderstandings had been cleared up. Japan looked forward to receiving such information as was necessary to resolve this problem.

369. In November 2002, Indonesia noted that the Japanese animal health inspection team had carried out an FMD risk assessment in Indonesia in June 2002. Indonesia recalled that the OIE had recognized the country as FMD free without vaccination and requested Japan to take this into

consideration. Japan stated that the issue could not be resolved until the risk assessment was completed. Further data had been sought from Indonesia in order to finalize the risk assessment.

370. In June 2003, Indonesia raised concerns that Japan continued to ban imports of sugar cane top from Indonesia and as a result the Indonesian industry had collapsed. Japan had not acknowledged that Indonesia was free from FMD despite the fact the Indonesia's FMD-free status had been regularly confirmed by the OIE. Indonesia welcomed further Japanese missions to Indonesia but requested Japan to specify more clearly the issues of their concern. Japan responded that technical consultations had been held and more experts had been dispatched in June 2002 in order to provide Japan with additional scientific information. Further scientific assessments would now be carried out and Japan looked forward to continued consultations.

213. Restrictions on beef imports

Raised by:	United States
Supported by:	European Communities
Dates raised:	March 2005 (G/SPS/R/36/Rev.1, paras. 30-31), June 2005 (G/SPS/R/37/Rev.1, paras. 53-55), October 2005 (G/SPS/R/39, paras. 43-45), February 2006 (G/SPS/R/39, paras. 43-45), March 2006 (G/SPS/R/40, paras. 46-47)
Relevant document(s):	G/SPS/R/36/Rev.1, paras. 10-14
Solution:	
Status:	Not reported

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

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

373. In June 2005, the United States emphasized over the past 17 months, the United States had provided Japan with extensive technical information on all aspects of its BSE-related protection measures, internationally recognized as effective and appropriate, for both food safety and animal health. The United States stressed that, according to the revised OIE standards, the recent detection of one BSE-infected animal blocked from the food and feed chain could not be used as an excuse to

restrict imports of US beef products. The European Communities invited Japan to replace its import ban with specific requirements in accordance with OIE standards. Japan reported that the Food Safety Commission had completed the risk assessment on domestic beef on 6 May 2005 and was now carrying out the risk assessment on US beef.

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

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

376. In March 2006, the European Communities indicated that despite bilateral efforts following the consideration of this issue at the last SPS Committee meeting, progress on this issue had not been satisfactory. In the light of favourable developments of the disease situation in the European Communities and due to recent changes in the OIE Terrestrial Animal Health Code chapter on BSE, it was time for Members to implement international standards for BSE. The European Communities could satisfy Japan's requirements related to the feed ban and its enforcement; the removal of specific risk materials; and an effective system of identification and registration and traceability for bovines and their products. Japan had denied the EC request to perform BSE risk assessments for interested EC member States, in contravention of Articles 2.3 and 3.3 of the SPS Agreement. The European Communities invited Japan to review its ban on imports of EC beef on the basis of a risk assessment and noted that useful discussions had been held just prior to the meeting.

377. Japan indicated that Japan had decided in January 2006 to hold technical consultations between experts from Japan and from those EC member States interested in exporting beef to Japan.

221. Safety insurance and quality improvement standards for feed and feed additives

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

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

379. Japan stated that scientific data was insufficient and that no international standards had been established so far. Some Members had regulations to restrict the maximum dose of Astaxanthin to be

administered to finfish. Therefore, as a provisional measure, Japan had set an upper limit for Astaxanthin, which was added to feeds, based on SPS measures applied by other Members. Japan had taken into account technical and economic feasibility when deciding the upper limit. Japan was willing to reconsider its regulation when new international standards or scientific evidence on this issue were presented.

Plant Health

23. Plant quarantine regulations

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 26), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/N/JPN/19, G/SPS/GEN/265
Solution:	
Status:	Not reported

380. In March 1997, the United States informed the Committee of bilateral discussion with Japan regarding its plant quarantine regulations. Both Members agreed that the communication process had flowed smoothly, and that this was a good example of how the transparency provisions of the SPS Agreement could enhance the understanding between Members on points of concern. Japan maintained that its proposed regulation was based on the pest-risk analysis guidelines of the IPPC.

381. In July 2001, the United States reported that it had continued to hold bilateral consultations with Japan on aspects of its quarantine regulations, including measures related to apple imports (G/SPS/GEN/265). The United States considers this trade concern unresolved.

56. Notification on amendment of the Japanese Plant Protection Law

Raised by:	United States
Supported by:	Australia, Canada, Chile, New Zealand, Philippines, Uruguay, European Communities
Dates raised:	November 1998 (G/SPS/R/13, paras. 31-34), November 1999 (G/SPS/R/17, para. 82), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GEN/100, G/SPS/N/JPN/37, G/SPS/GEN/265
Solution:	
Status:	Not reported

382. In November 1998, the United States noted that the draft regulation proposed the addition of 27 pests to the list of non-quarantine pests in Japan's Plant Protection Law. The United States, although encouraged by certain aspects of Japan's proposal, continued to have concerns regarding the basis and application of Japan's phytosanitary legislation. The legislative amendments did not appear to alter the current practice of requiring fumigation and other costly treatment for most non-quarantine pests, including those pests which were widespread in Japan and not subject to internal regulatory or quarantine controls. The United States urged Japan to take into consideration the IPPC definition of a

quarantine pest. The European Communities asked Japan to explain the scientific rationale behind its measure, and the risk assessment it was based on. Japan replied that its definition of quarantine pests complied with the IPPC definition. The list of non-quarantine pests would be reviewed in the future with a view to expansion. Japan welcomed continued bilateral consultations on the matter.

383. In November 1999, the European Communities recalled its request for an explanation of the Japanese measure, to which it had not received a reply. Japan announced that the matter would be pursued bilaterally.

384. In July 2001, the United States indicated that it continued to pursue the matter bilaterally with Japan.

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

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

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

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

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

388. Japan recognized that the IPPC standards should be one of the basis in a possible future quarantine system for Japan. Japan was examining whether its appropriate level of protection could be maintained by applying plant quarantine measures in line with the new IPPC definition, taking into account Japan's climate and the large volume of imports into Japan. A number of pests were presently under study and although a final conclusion had not yet been reached, discussions were underway to identify practical measures to reduce the effects of Japan's official control measures on international trade.

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

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

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

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

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

394. Japan recalled that at the last Committee meeting, Japan and New Zealand had agreed to resolve the issue from a technical perspective and on a case-by-case basis. As a result of bilateral discussions, new quarantine measures were to be introduced in May 2004, based on trials of orchard control for Fuller Rose Weevil on kiwifruit. Furthermore, quarantine trials for reducing fumigation on lettuce from the United States were conducted from July 2003 to March 2004 and the results were under evaluation. Japan had received requests for 39 species of pests from New Zealand and 11 species from the United States to be designated as non-quarantine pests. Members' concerns on the inconsistency of Japan's plant health laws with international standards were under review. The consultative group on plant quarantine established by Japan's plant quarantine authorities had held four meetings but experienced a delay in compiling its recommendations. The consultative group meetings would be reactivated to work on recommendations which would be considered by plant quarantine authorities for further action.

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

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

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

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

399. In March 2005, New Zealand reiterated its concerns and welcomed Japan's announcement of expansion of its non quarantine pest list through the addition of 46 pests, especially as this list included a number of pests of specific concern to New Zealand. New Zealand encouraged Japan to implement these proposed changes as soon as its domestic regulatory procedures allowed, and in a manner that significantly addressed its concerns. New Zealand also requested information on Japan's proposed timetable for carrying out risk assessments on other pests of concern to New Zealand with a view to their inclusion on Japan's non-quarantine pest list as soon as practicable. The United States and the European Communities shared the concern that Japan's systems and procedures needed to be further modified to conform to international norms and practices while welcoming Japan's efforts to revise its plant quarantine process.

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

162. Fumigation standards

Raised by:	United States
Supported by:	
Dates raised:	April 2003 (G/SPS/R/29, paras. 31-32)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

401. The United States reported that a newly adopted measure by Japan's Ministry of Agriculture, Fisheries and Food prohibited the re-fumigation of fruit or rice which had previously undergone fumigation in the United States. Japan had not notified this measure and the United States requested clarification from Japan on the objective of the measure, its scope, implementation, enforcement and projected trade effects, as well as a delay in its implementation.

402. Japan stated that it would transmit the United States' concern to its authorities and respond in due course.

223. Import requirements for Indian mangoes

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

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

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

Other concerns

13. Translation of regulations – Maintained by Japan and Korea

Raised by:	Argentina
Supported by:	Thailand
Dates raised:	October 1996 (G/SPS/R/6, para. 26)
Relevant document(s):	G/SPS/N/JPN/1, G/SPS/N/KOR/29, G/SPS/N/KOR/20, G/SPS/N/KOR/31
Solution:	
Status:	Not reported

405. Argentina regretted that the regulations notified by Japan and Korea were not available in one of the three WTO working languages. The Chairman recalled that Annex B, paragraph 8 of the SPS Agreement requires developed country Members to "provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish", if there is a specific request from another Member. Japan observed that it normally provided summaries of the documents in English. Thailand suggested that countries give sufficient detail in the description of content of their notifications to enable relevant comments by recipient Members.

173. Notification on uses of living modified organisms

Raised by:	Australia
Supported by:	United States
Dates raised:	June 2003 (G/SPS/R/30, paras. 72-74)
Relevant document(s):	G/SPS/N/JPN/9
Solution:	
Status:	Not reported

406. Australia indicated that Japan's notification regarding its proposed draft law on the conservation and sustainable use of living modified organisms raised a number of concerns. Australia was a major grain exporter and was especially interested in the documents which should accompany shipments. Japan had not responded to Australia's query. The United States was also concerned how Japan intended to implement the Cartagena Biosafety Protocol and in particular the documentation requirements.

407. Japan replied that it had ratified the Cartagena Biosafety Protocol on 10 June 2003 and its measures were consistent with the agreement. Japan would shortly provide responses to the questions it had received from Australia.

224. Restrictions on EC exports of plant and animal products

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

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

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

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

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

REPUBLIC OF KOREA

CONCERNS RELATED TO MEASURES MAINTAINED BY REPUBLIC OF KOREA

Food safety

179. Guidelines for maximum residue level (MRL) testing

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

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

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

414. In March 2004, the United States stated that they were informed during bilateral meetings held with Korea that test fees would be reduced. However, the Korean authorities had not finalized

this decision nor addressed the issue satisfactorily. Australia, New Zealand, Canada and the European Communities stated that Korea's testing regime would impose substantial costs on imports and discriminated between imported products and similar products produced in Korea. Korea replied that the relevant administrative procedures to reduce the testing fees were underway and would be completed in two to three weeks, but not later than the end of April.

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

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

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

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

European Communities and the Philippines shared the concerns of the United States. The Philippines indicated that the requirements would be particularly burdensome for developing countries, and asked Korea to take developing countries exporters into special consideration.

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

Animal Health and Zoonoses

65. Import restrictions on beef

Raised by:	Argentina
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, paras. 13-14)
Relevant document(s):	G/SPS/GEN/109 and G/SPS/GEN/130
Solution:	
Status:	Not reported

420. Argentina raised concerns regarding Korea's denial of access to Argentine beef without specifying its sanitary requirements or visiting Argentina to verify its sanitary status. Korea replied that since it had been free of FMD for 60 years, it applied very strict requirements. Korea believed it was acting consistently with OIE recommendations, and offered to discuss the matter bilaterally.

84. Import restrictions affecting BSE-free countries – Maintained by Argentina, Australia, Canada, Republic of Korea, New Zealand, United States **[See Item 84, page 1]**

Plant Health

174. Notification on transboundary movement of living modified organisms

Raised by:	Australia
Supported by:	United States
Dates raised:	June 2003 (G/SPS/R/30, paras. 72-74)
Relevant document(s):	G/SPS/N/KOR/49
Solution:	
Status:	Not reported

421. Australia indicated that Korea's notification on the transboundary movement of living modified organisms raised a number of concerns. Australia was a major grain exporter and was

especially interested in the documents which should accompany shipments. Korea had responded to Australia's query, and Australia was examining this response. The United States was also concerned how Korea intended to implement the Cartagena Biosafety Protocol and in particular the documentation requirements.

422. Korea stated that it was acting in line with the transparency requirements and would continue to do so.

Other concerns

13. Translation of regulations – Maintained by Japan and Korea [See Item 13, page 100]

Raised by:	Argentina
Supported by:	Thailand
Dates raised:	October 1996 (G/SPS/R/6, para. 26)
Relevant document(s):	G/SPS/N/JPN/1, G/SPS/N/KOR/29, G/SPS/N/KOR/20, G/SPS/N/KOR/31
Solution:	
Status:	Not reported

423. Argentina regretted that the regulations notified by Japan and Korea were not available in one of the three WTO working languages. The Chairman recalled that Annex B, paragraph 8 of the SPS Agreement requires developed country Members to "provide copies of the documents or, in case of voluminous documents, summaries of the documents covered by a specific notification in English, French or Spanish", if there is a specific request from another Member. Japan observed that it normally provided summaries of the documents in English. Thailand suggested that countries give sufficient detail in the description of content of their notifications to enable relevant comments by recipient Members.

KUWAIT

CONCERNS RELATED TO MEASURES MAINTAINED BY KUWAIT

Food safety

165. Import restrictions on Spanish olive oil – Maintained by Bahrain, Kuwait, Oman, Qatar and United Arab Emirates [See Item 165, page 10]

MEXICO

CONCERNS RELATED TO MEASURES MAINTAINED BY MEXICO

Animal Health and Zoonoses

67. Import restrictions on beef

Raised by:	Argentina
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, para. 12)
Relevant document(s):	G/SPS/GEN/109 and G/SPS/GEN/129
Solution:	
Status:	Not reported

424. Argentina indicated it had not received a satisfactory answer to repeated requests that Mexico provide information on its specific sanitary requirements for beef imports and the related risk assessments. Argentina recalled that it was free of FMD. Mexico took note of Argentina's concerns and expressed hope to resolve the matter bilaterally.

163. Restrictions on Austrian products

Raised by:	European Communities
Supported by:	
Dates raised:	April 2003 (G/SPS/R/29, paras. 36-37), June 2003 (G/SPS/R/30, para. 42)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

425. The European Communities stated that France, Ireland, the Netherlands and the United Kingdom had officially regained their OIE FMD-free status without vaccination after the 2001 outbreak. However, Mexico continued trade restrictions against Austrian animal products, despite the fact that Austria had not had a FMD outbreak since 1991. Austria had applied to be recognized as FMD-free by the Mexican authorities. Mexico indicated that Austria failed to meet certain requirements to be recognized as FMD-free and encouraged the Austrian authorities to complete a second questionnaire requesting more details.

426. In June 2003, the European Communities reported that bilateral consultations had been held, and Mexico confirmed that it expected the issue to be resolved soon.

225. Restrictions on US poultry

Raised by:	United States
Supported by:	Canada

Dates raised:	June 2005 (G/SPS/R/37/Rev.1, paras. 26-29), March 2006 (G/SPS/R/40, paras. 41-43)
Relevant document(s):	G/SPS/N/MEX/200
Solution:	
Status:	Not reported

427. In June 2005, the United States stated that Mexico was banning imports of poultry and poultry products from an entire US state in which cases of low pathogenic avian influenza (LPAI) had been reported in some areas. Mexico also required avian influenza (AI) testing for layer and broiler flocks regardless of whether or not AI had been reported. Only two subtypes of AI (H5 and H7) had been found to mutate into the highly pathogenic forms of the disease. Low pathogenic strains of AI did not cause systemic disease and had not been shown to be of consequence for animal health or food safety. The OIE did not recommend any trade restrictions on poultry and poultry products when cases of low pathogenic strains of AI of non-H5 and H7 subtypes were reported and only limited measures for low pathogenic strains of the H5 and H7 subtypes. The relevant scientific evidence showed that the LPAI virus did not appear in the muscle tissue of an infected chicken and that neither fresh meat nor eggs imported from regions affected by low pathogenic AI posed a risk of transmitting the disease. Given the scientific evidence underpinning the recently-adopted changes in the relevant international standard, the United States encouraged Mexico to modify its import restrictions and testing requirements.

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

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

430. Mexico recalled that the OIE in May 2005 adopted regulations (Chapter 2.17.12: AI, Terrestrial Animal Health Code) that stipulated that all H7 and H5 subtypes of AI viruses, in both its high and low pathogenic forms, were notifiable as well as any AI virus with an intravenous pathogenicity index (IVPI) greater than 1.2. These regulations also stipulated that a country, zone or

compartment could be recognized as free from the notifiable high and low pathogenic forms of AI virus. In accordance with Article 2.1, 2.2, and 2.3 of the SPS Agreement, Mexico had established the health requirements for exporting poultry and poultry by-products from and originating in areas free of notifiable AI viruses or free only of highly pathogenic notifiable AI viruses. Mexico currently allowed imports of poultry, poultry products and by-products from the United States, except for birds and some products from the states affected by a subtype of AI. Regarding Canada, Mexico explained that following an outbreak of highly pathogenic AI of the H7N3 subtype in British Colombia, the province had been quarantined and technical information requested concerning the outbreak. That same month, Mexico had received information identifying the AI virus in ducks and in geese as low pathogenic. In June 2005, it had received information identifying the low pathogenicity virus of the subtype H3, also in British Colombia, and would carry out an assessment of the health situation in respect of AI in British Colombia.

431. In March 2006, the United States expressed appreciation that a bilateral agreement with Mexico in August 2005 had resulted in the removal of bans on US poultry in October 2005. However, in January 2006 Mexico had published a final measure that would modify the existing import conditions previously agreed upon. This final measure had not been notified to the SPS Committee. The United States requested Mexico to notify this final measure and delay its application while allowing Members sufficient time to comment on the measure before its implementation.

432. Mexico indicated that a draft amendment to the 2004 Mexican regulation had been published in notification G/SPS/N/MEX/200, for which Mexico had provided a period for comments by Members. Mexico had received comments, inter alia, from the US Department of Agriculture. This notification indicated that the date of entry into force was proposed as the day following publication of the final regulation. The final regulation had been published on 30 January 2006 and had been notified to the North American Free Trade Agreement (NAFTA) contact point on the same day. However, Mexico had decided to delay the entry into force of the measure for 60 days, meaning that the regulation would come into force in April 2006.

433. Mexico further reported that following a meeting on 8 December 2005 between Mexican and US officials, the National Health Service authorized the use of the Enzyme-linked Immunosorbent Assay (ELISA) technique and equivalent mechanisms to validate different types of AI. In Mexico, only the AI subtype H5N2, a low pathogen type, had been detected and it was important for Mexico to avoid the introduction of any other types of AI.

NEW ZEALAND

CONCERNS RELATED TO MEASURES MAINTAINED BY NEW ZEALAND

Animal Health and Zoonoses

84. Import restrictions affecting BSE-free countries – Maintained by Argentina, Australia, Canada, Republic of Korea, New Zealand, United States [See Item 84, page 1]

OMAN

CONCERNS RELATED TO MEASURES MAINTAINED BY OMAN

Food safety

165. Import restrictions on Spanish olive oil – Maintained by Bahrain, Kuwait, Oman, Qatar and United Arab Emirates [See Item 165, page 10]

PANAMA

CONCERNS RELATED TO MEASURES MAINTAINED BY PANAMA

Food safety

83. Restrictions on milk powder imports

Raised by:	European Communities
Supported by:	
Dates raised:	November 2000 (G/SPS/R/20, paras. 15-16), July 2001 (G/SPS/R/22, para. 135)
Relevant document(s):	G/SPS/GEN/220
Solution:	
Status:	Not reported

434. In November 2000, the European Communities indicated that since April 2000 the Panamanian authorities had delayed issuing the necessary import permits and certificates for the import of milk powder for human consumption from Denmark, resulting in a de facto ban on these products. No explanation had been provided in response to EC requests, and no notification submitted to the WTO. The European Communities requested a response by Panama to the questions contained in G/SPS/GEN/220. The representative of Panama agreed to submit the questions to his capital, and indicated the willingness of Panama to consult with the European Communities on this matter.

435. In July 2001, Panama informed the Committee that it had provided responses to the EC questions regarding powdered milk from Denmark. In these responses, Panama reiterated that it applied the same sanitary measures to domestic and imported products. The European Communities indicated that the Commission would study the answers and report back to Panama.

Animal Health and Zoonoses

149. Restrictions on food products

Raised by:	European Communities
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 195-196)

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

436. The European Communities stated that Panama had instituted a range of severe measures on imports of animal products. Although the law was intended to address risks related to FMD, BSE, Newcastle disease and other exotic diseases, the European Communities considered the law to be disproportionate and not science-based. In addition, the measure had not been notified. Panama indicated that it hoped to be able to provide a prompt response.

187. FMD restrictions

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

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

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

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

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

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

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

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

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

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

214. Inspection regime for food processing establishments

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

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

447. Panama pointed out that this regime had been notified to the SPS Committee and Members provided an opportunity to comment on it (G/SPS/N/PAN/1, G/SPS/N/PAN/28 and G/SPS/N/PAN/37). This was the first time, since the implementation of Panama's inspection regime

for the inspection of food establishments in 1995, that an issue in relation with this system had been raised at the WTO. Panama's legislation required that imports of animals and animal products from countries affected by exotic illnesses be subject to a risk analysis carried out by Panamanian health authorities because Panama, as a hub for world trade transit, was exposed to a greater risk of illness from exotic animals and plants.

PHILIPPINES

CONCERNS RELATED TO MEASURES MAINTAINED BY PHILIPPINES

Plant Health

119. Notification on Chinese fruit imports

Raised by:	China
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, para. 141)
Relevant document(s):	G/SPS/N/PHL/35 and Add.1
Solution:	Temporary ban lifted on the condition that those places identified as sources of infested exports undertake treatment to effectively kill the insect
Status:	Partially resolved

448. China reported that the Philippines had applied an emergency restriction on imports of fruit from China, notified in G/SPS/N/PHL/35. The notification indicated that the measure was imposed because codling moth had been detected in imports of certain fruits. However, technical experts of both countries had re-identified the intercepted insect as peach fruit moth, a common pest. On this basis, the Philippines lifted the quarantine ban, but the addendum to the notification did not clarify the mistaken identification of the pest (G/SPS/N/PHL/35/Add.1).

449. The Philippines confirmed that further investigation had revealed that the intercepted insect was not codling moth, but Carposina nipponensis, a species not previously known in the Philippines. The Philippines had lifted the temporary ban on the condition that those places identified as sources of infested exports would undertake treatment to effectively kill the insect. This decision was reflected in the addendum to the notification, although the Philippines agreed to further correct the information provided in the notification, to avoid confusion and possible unnecessary restrictions on Chinese agricultural products by other Members.

POLAND

CONCERNS RELATED TO MEASURES MAINTAINED BY POLAND

Plant Health

25. Restrictions on wheat and oilseeds

Raised by:	United States
Supported by:	

Dates raised:	March 1997 (G/SPS/R/7, paras. 13-14), November 1998 (G/SPS/R/13, para. 27), July 2001 (G/SPS/R/22, para. 127)
Relevant document(s):	G/SPS/GEN/265
Solution:	
Status:	Not reported

450. In March 1997, the United States questioned the phytosanitary health basis for Poland's restrictions which applied to weed seeds that existed world-wide, some of them known to be established in Poland. Poland replied that the measure did not affect trade with the United States, as no shipment of US grain or oilseeds had been rejected because of quarantine risks. In November 1998, the Chairman reported that he and the Secretariat had been requested to facilitate bilateral consultations between the United States and Poland regarding tolerance levels for weed seed, particularly of the genus Ambrosia. These consultations had focussed on technical aspects of pest risk analysis, and both parties had agreed to continue the discussions.

451. In July 2001, the United States indicated that it continued to pursue the matter bilaterally with Poland.

QATAR

CONCERNS RELATED TO MEASURES MAINTAINED BY QATAR

Food safety

165. Import restrictions on Spanish olive oil – Maintained by Bahrain, Kuwait, Oman, Qatar and United Arab Emirates [See Item 165, page 10]

ROMANIA

CONCERNS RELATED TO MEASURES MAINTAINED BY ROMANIA

Food safety

134. SPS measures on animal products

Raised by:	Moldova
Supported by:	China
Dates raised:	June 2002 (G/SPS/R/27, paras. 35-37)
Relevant document(s):	G/SPS/GEN/334
Solution:	
Status:	Not reported

452. Moldova indicated that Romania had begun to impose EC requirements on imports of meat and animal products although Romania did not meet these requirements domestically (G/SPS/GEN/334). As a result, meat, milk and egg exports from Moldova were in effect banned from the Romanian market, which normally absorbed about 80 per cent of Moldova agricultural exports.

Romania had not provided any scientific justification for its measure. Its failure to notify the measure meant that exporters had not had any time to adapt to the new requirements. China expressed support for the concerns expressed by Moldova and urged Romania to review its measures in this area.

453. Romania argued that the measure in question was a result of its harmonization with the acquis communautaire of the European Union, and was necessary to ensure consumer protection. Romania stated that this was not a new SPS measure, so it had not been notified. Nonetheless, the Romanian Ministry of Agriculture was considering ways to address the difficulties posed to Moldova from its implementation.

SLOVAK REPUBLIC

CONCERNS RELATED TO MEASURES MAINTAINED BY SLOVAK REPUBLIC

Food safety

9. Zero-tolerance for salmonella in imported poultry products – Maintained by Chile, Czech Republic, El Salvador, Honduras and Slovak Republic [See Item 9, page 22]

SOUTH AFRICA

CONCERNS RELATED TO MEASURES MAINTAINED BY SOUTH AFRICA

Animal Health and Zoonoses

43. Prohibition on bone-in beef imports from EC member States

Raised by:	European Communities
Supported by:	
Dates raised:	March 1998 (G/SPS/R/10, paras. 32-33), September 1998 (G/SPS/R/12 and Corr.1, paras. 19-21)
Relevant document(s):	G/SPS/N/ZAF/2, G/SPS/GEN/95
Solution:	
Status:	Not reported

454. In March 1998, the European Communities noted that the South African ban on beef imports applied to all EC member States. This was unjustified in light of measures taken at EC and national level in countries were BSE cases had occurred. In addition, South African requirements were not in accordance with OIE standards. South Africa stressed that the European Communities were a major supplier of meat to South Africa, and that South Africa had no interest in having consumers consider EC meat as unsafe. However, South Africa wanted to maintain its BSE-free status, and protect human and animal health. South Africa invited the European Communities to provide written comments.

455. In September 1998, the European Communities again raised this issue. South Africa replied that written comments from the European Communities had only recently been received. In March and July 1998, South Africa had provided to the European Communities a written explanation of the measure in question. Furthermore, South Africa had reiterated its invitation to the European

Communities to submit evidence which would permit a re-evaluation of its decision, possibly on an individual EC member State basis. In accordance with Article 5.7, South Africa would review its measure in the light of additional information. The European Communities recognized that it had yet to provide a written reply to South Africa's request for information, and welcomed the invitation for bilateral discussions of the issue.

135. Restrictions on beef and pork

Raised by:	Brazil
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras 19-20), November 2002 (G/SPS/R/28, para. 176)
Relevant document(s):	Raised orally
Solution:	Imports of meat and pork from Brazilian regions free of FMD authorized. Problems remaining concerning administrative procedures for meat products.
Status:	Partially resolved

456. Brazil stated that in February 2002, South Africa had suspended imports of beef and pork from Brazil, because FMD vaccination was practised there. South Africa's import ban was not based on the OIE standards nor on scientific evidence or risk assessment nor had the measure been notified. Brazil requested South Africa to lift the ban and accept the risk mitigation procedures established by the OIE. South Africa indicated that they were committed to bilateral consultations with a view to find a quick solution to the problem. In November 2002, Brazil reported that South Africa had authorized imports of meat and pork from Brazilian regions free of FMD. Some difficulties remained regarding administrative procedures for meat products, but were expected to be resolved soon.

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

CONCERNS RELATED TO MEASURES MAINTAINED BY CHINESE TAIPEI

Animal Health and Zoonoses

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

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

457. In June 2005, the United States raised concerns regarding the BSE-related import prohibition imposed by Chinese Taipei on non-ruminant rendered meals except fishmeal, and all spray-dried

animal products except dairy products and certain porcine products made in specified plants. For over five years, the United States had been providing significant scientific information to the animal health authorities of Chinese Taipei to allow the resumption of this trade. Chinese Taipei had not provided any scientific justification exceeding the relevant international standards. Bilateral discussions just prior to the meeting gave hope of finding a mutually satisfactory solution.

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

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

Plant Health

136. Policies regarding quarantine and non-quarantine pests

Raised by:	United States
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras 33-34)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

460. The United States expressed concern that Chinese Taipei's Plant Production and Quarantine Act did not distinguish between quarantine and non-quarantine pests which was detrimental to US exports. Chinese Taipei had agreed to amend this act, however this was expected to take some time. In response, Chinese Taipei indicated that problems arose due to inconsistency between the Chinese and English version of the Act. His authorities had agreed to amend the Act to bring it into conformity with the standards of the IPPC.

461. In January 2005, Chinese Taipei reported that the Enforcement Rules on Plant Protection and Quarantine Act were revised in October 2003. The phytosanitary measures applied only to regulated pests.

THAILAND

CONCERNS RELATED TO MEASURES MAINTAINED BY THAILAND

Food safety

215. Public Health Regulation 11

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

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

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

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

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

466. Japan observed that a national strategic plan on food, such as Rule 11, aimed at strengthening the control measures for the safety and quality of domestic and imported food, should be based on a science-based risk assessment and the working principles for risk analysis applied by the Codex Alimentarius. In order to avoid unjustified trade barriers, risk management should ensure transparency

and consistency in the decision-making process in all cases. Japan requested information about the relationship between the proposed regulation and the related international standards.

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

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

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

Animal Health and Zoonoses

234. Suspension of importation of live poultry and poultry carcasses

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

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

471. Thailand indicated that it had adopted a precautionary approach since the AI outbreaks over the last two years. Active surveillance had been put in place to control and eradicate the disease. Areas at risk had been scanned and movements of poultry and poultry products within the country were under control. Thailand had temporarily banned some Mexican poultry exports from the infected state only.

TRINIDAD AND TOBAGO

CONCERNS RELATED TO MEASURES MAINTAINED BY TRINIDAD AND TOBAGO

Animal Health and Zoonoses

151. Restrictions on imports of pork sausages and other pork products

Raised by:	Argentina
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 32-34), April 2003 (G/SPS/R/29 paras. 65-66), June 2003 (G/SPS/R/30, paras. 45-46), October 2003 (G/SPS/R/31, paras. 31-32)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

472. Argentina reported that the health authorities from Trinidad and Tobago had provided two responses regarding import requirements for Argentine pork products, fresh cured or salted. The first response indicated that imports of Argentine pork products were currently banned because of the FMD outbreak that had occurred in 2001, and that imports would not be able to resume until the health status of Argentina changed to that of a country free of FMD without vaccination. The second response stated that imports of pork products were allowed only from those countries that had FMD free status without vaccination for at least three years before the date of export. These requirements were stricter than the OIE Animal Health Code, lacked a scientific basis and were not proportionate to the objectives pursued. Argentina a lifting of the ban and copies of the scientific evidence that justified the measure..

473. Trinidad and Tobago indicated that the issue of importation of Argentine pork products had been the subject of ongoing bilateral consultations. As a member of the Caribbean Community (CARICOM), Trinidad and Tobago adhered to a regional policy for the importation of meat and meat products according to which, in the event that an exporting country had experienced an FMD outbreak, imports would only be allowed after disease-free status had been achieved without vaccination. The regional decision reflected consensus among member States. These requirements were transparent and applied in an equitable manner to all countries that had experienced FMD outbreaks. Trinidad and Tobago reaffirmed the country's willingness to continue the bilateral process.

474. In April 2003, Argentina reported that despite the willingness of Trinidad and Tobago to engage in bilateral consultations, no progress had yet been achieved at the technical level. Trinidad and Tobago explained that the OIE Code stated that affected products should not be accepted from vaccinated animals. Re-opening of markets was based on consensus among CARICOM members. Accordingly, Argentina had been advised that the matter should be pursued through the CARICOM Secretariat, which Argentinal had done. CARICOM was committed to finding a mutually agreeable

solution and had convened a meeting of the region's chief veterinary officers to discuss the matter on 7-8 April 2003. It was expected that the matter would be fully resolved at the time.

475. In June 2003, Argentina indicated that its authorities had provided Trinidad and Tobago the information agreed upon after the last Committee meeting. CARICOM was committed to sending a technical mission to Argentina with the aim of accepting Argentine exports. Trinidad and Tobago confirmed that a risk assessment mission was expected to take place within the next two months.

476. In October 2003, Argentina reported that since the last meeting, its authorities had provided information to Trinidad and Tobago on the foot-and-mouth disease status of Argentina. However, a visit by three veterinarians from the CARICOM to dairy factories and sausage production plants had been cancelled due to a new outbreak of FMD. The representative of Trinidad and Tobago clarified that Argentina had postponed the trip, scheduled for 8-12 September, due to the appearance of an isolated case of FMD. CARICOM had yet to be advised by Argentina of new dates for the visit. Trinidad and Tobago stated that its restriction would not be removed until the risk assessment was completed.

TURKEY

CONCERNS RELATED TO MEASURES MAINTAINED BY TURKEY

Animal Health and Zoonoses

48. Import ban on livestock

Raised by:	Hungary, United States
Supported by:	Australia, New Zealand, Uruguay, European Communities
Dates raised:	June 1998 (G/SPS/R/11, para. 33), September 1998 (G/SPS/R/12, paras. 7-10), June 2000 (G/SPS/R/19, paras. 12-14), July 2001 (G/SPS/R/22, para. 127), October 2001 (G/SPS/R/25, para. 33), April 2003 (G/SPS/R/29, paras. 205-206), June 2003 (G/SPS/R/30, para. 67)
Relevant document(s):	G/SPS/GEN/265
Solution:	The United States reported in July 2001 that its concerns were resolved. Hungary's concerns are outstanding.
Status:	Partially resolved

477. In June 1998, the United States sought clarification from Turkey whether its FMD-related import ban on cattle and meat products had ever been officially published or notified to the WTO. The United States requested an explanation of the measure's scientific basis, especially in view of the FMD-free status of the United States. In September 1998, the United States noted that Turkey had extended its import ban for the eighth time. Turkey replied that the policy was geared at preventing the spread of FMD in the country. A rigorous nation-wide eradication programme was in place, and considerable progress had been made. Turkey believed that the application of temporary measures with the objective of creating the necessary animal health conditions within its borders was justified, but was open to dialogue with its trading partners to reach a mutually agreeable solution.

478. In June 2000, Hungary recalled that several Members had challenged the WTO-consistency of Turkey's import restrictions on live cattle and beef meat. Hungary had been free from FMD for nearly 20 years, and had pursued FMD control policies which made vaccination redundant. Hungary

suggested the Turkish ban violated Article 2.2 of the SPS Agreement. Based on Articles 5.1 and 5.8, Hungary asked Turkey to provide its risk assessment on the importation of live cattle and beef from FMD-free countries. New Zealand asked if Turkey had an import licensing system, and if so, how risk was assessed and how licenses were issued. Turkey committed to providing a report on an interdepartmental review of the sanitary measures.

479. In July 2001, the United States indicated that Turkey had assured the United States in September 1999 that the import ban was no longer in force (G/SPS/GEN/265). The United States considered this trade concern resolved. In October 2001, Hungary reported that its concerns were still outstanding.

480. In April 2003, Hungary again raised concerns over the on-going restrictions on imports of live cattle and beef maintained by Turkey. According to the OIE, Hungary had been free from FMD for nearly 20 years. Hungarian live cattle and beef was also free from BSE. Hungary had questioned this measure several times bilaterally and in the SPS Committee but had not received any explanation or risk assessment studies from Turkey. Turkey explained that many countries had imposed import restrictions or bans on live animals and animal products originating from some European countries due to BSE and FMD to protect their public health and livestock. Turkey had simply taken the same measures based on available information and to satisfy the widespread public concern over BSE.

481. In June 2003, Turkey stated that cattle and beef imports from some EC member States and from Hungary had been temporarily suspended as cattle from these countries had not been vaccinated or achieved immunity against FMD and rinderpest which was present in Turkey at that time. The ban had been lifted in 1999, however, due to BSE concerns, the import of livestock had been partly banned again.

UNITED ARAB EMIRATES

CONCERNS RELATED TO MEASURES MAINTAINED BY UNITED ARAB EMIRATES

Food safety

165. Import restrictions on Spanish olive oil – Maintained by Bahrain, Kuwait, Oman, Qatar and United Arab Emirates [See Item 165, page 10]

UNITED STATES

CONCERNS RELATED TO MEASURES MAINTAINED BY UNITED STATES

Food safety

58. Notification on refrigeration and labelling requirements for shell eggs

Raised by:	European Communities
Supported by:	
Dates raised:	November 1998 (G/SPS/R/13, paras. 37-38)

Relevant document(s):	G/SPS/N/USA/133
Solution:	
Status:	Not reported

482. The European Communities queried whether the US measure was based on a risk assessment, and if this risk assessment was available. The European Communities sought written clarification from the United States regarding the non-application of the measure to units with 3000 hens or less, and asked the United States to explain the discrimination between foreign and domestic eggs. The European Communities also enquired whether the United States would accept equivalent measures. The United States responded that the risk assessment was available on the internet, but that a copy would be provided to the European Communities. The United States welcomed the EC request for consideration of equivalence, and indicated that answers to the more technical questions would be provided in due course.

152. Restrictions on melons

Raised by:	Mexico
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 180-181)
Relevant document(s):	G/SPS/GEN/366
Solution:	
Status:	Not reported

483. Mexico indicated that on 28 October 2002, the US Food and Drug Administration (FDA) imposed an emergency import ban on cantaloupe melons imported from Mexico. Mexico considered this measure as being disproportionate and not based on scientific evidence of any health risk (G/SPS/GEN/366). Mexico requested the United States to suspend the import ban on cantaloupe melons and to comply with its obligations under the SPS Agreement.

484. The United States noted that FDA sampling of imported produce found that samples of cantaloupe melons from most growing regions in Mexico tested positive for salmonella. The samples had been collected both in the fall/winter and spring/summer seasons, and it appeared that unsanitary conditions in the growing and packing of cantaloupe melons had resulted in four salmonella outbreaks. The import alert recommended officials to detain cantaloupe melons from Mexico at all US ports without physical examination. The October import alert expanded prior import alerts that had targeted specific imports and growers whose products had been linked to outbreaks or had tested positive for salmonella. On 28 October 2002, the United States had announced that they would continue to work with Mexico on a food safety programme for production, packing and shipping of fresh cantaloupe melons. The Mexican Government had proposed a certification programme based on good agricultural practices and good manufacturing practices that would allow the FDA to identify firms that had adopted and implemented such a programme. This certification programme was still under development and the United States looked forward to its early implementation.

Animal Health and Zoonoses

7. Regionalization in relation to animal health

Raised by:	European Communities
Supported by:	
Dates raised:	May 1996 (G/SPS/R/5, para. 15)
Relevant document(s):	G/SPS/N/USA/37
Solution:	
Status:	Not reported

485. The European Communities welcomed a US notification on the introduction of regionalization in import policy and internal control policy in relation to animal health, but was concerned that the proposed measure did not meet the criteria of a true regionalization approach in conformity with what had been discussed at the OIE. The United States stressed the purpose of the proposed measure was to facilitate trade and to fulfil the obligation of the United States under the SPS Agreement, in particular Article 5.2 on risk assessment.

44. Measures related to BSE

Raised by:	European Communities
Supported by:	Argentina, Chile, New Zealand, Switzerland
Dates raised:	March 1998 (G/SPS/R/10, paras. 10-12), June 1998 (G/SPS/R/11, paras. 43-47)
Relevant document(s):	G/SPS/GEN/66, G/SPS/N/USA/106
Solution:	
Status:	Not reported

486. In March 1998, the European Communities complained that recent US measures were neither in conformity with the SPS Agreement nor with the OIE, and were singling out Europe. The European Communities rejected US claims that inadequate surveillance in relation to BSE was a problem within the European Communities and indicated that the European Communities was about to introduce a harmonized surveillance system. The United States replied that it was receiving numerous comments to its interim measure, which was intended to protect animal and consumer health from BSE in light of the unclear information on the distribution of BSE on the European continent. Trade would resume when the countries in question had systems that met US criteria. The United States would evaluate the data submitted, and would take the necessary measures based on science and risk assessment. Argentina noted that BSE was a European problem with important potential consequences for the rest of the world, and that it required a joint effort of political and scientific authorities to find a solution based on the available knowledge to avoid unnecessary trade disruption.

487. In June 1998, the European Communities drew attention to the recent OIE indication that when a country had no native cases of BSE and surveillance systems were in place for seven years, trade in meat could take place. The OIE also provided the basis on which trade could take place with countries of low incidence of BSE. The criteria on which US decisions would be based were still not clear to the European Communities. The United States announced that comments and information received were being incorporated into the risk assessment, taking into account the discussions in the

OIE framework. The updated rule would soon be published and notified, and responses would be provided to all comments received.

84. Import restrictions affecting BSE-free countries – Maintained by Argentina, Australia, Canada, Republic of Korea, New Zealand, United States [See Item 84, page 1]

88. Import restrictions due to FMD – Maintained by Canada and United States [See Item 88, page 21]

120. Restrictions on pigmeat

Raised by:	European Communities
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, para. 11), October 2003 (G/SPS/R/31, paras.33-34)
Relevant document(s):	G/SPS/N/USA/214/Add.1
Solution:	
Status:	Not reported

488. The European Communities drew the Committee's attention to notification G/SPS/N/USA/214/Add.1, which recognized Portugal as free of African swine fever. The phrasing of the US notification gave the erroneous impression that Portugal was "in a region infected with classical swine fever", whereas Portugal was recognized as free of classical swine fever by the OIE. Several EC member States remained on the US list of countries infected with classical swine fever solely because of delays in the US legislative procedure for reclassification, possibly for political reasons. The European Communities was hopeful that the publication of a final classical swine fever rule would follow shortly. The European Communities had signed a bilateral veterinary agreement with the United States in 1999 on the understanding that a final rule was imminent.

489. The United States noted that an outbreak of African swine fever was reported in Portugal in 1999 and that on 7 January 2000, the United States had notified measures taken in this regard. In spite of the change in African swine fever status, the export of pork products to the United States could not commence due to the presence of other animal diseases. The United States stated that they had legitimate scientific concerns related to classical swine fever in the European Communities following recent outbreaks in Germany, Spain and Luxembourg.

490. In October 2003, the European Communities stated that it had provided the necessary information and renewed its request to the United States to adhere to commitments made in the 1998 bilateral agreement between the United States and the European Communities on issues relating to animal health.

491. The United States explained that it had been working closely with the European Communities and interested EC member States on this regionalization request. The United States had published a final rule in April 2003 which recognized that certain areas of the European Communities were disease free. On 16 October 2003, APHIS ruled that East Anglia, in the United Kingdom, was disease free

and was continuing its evaluation of the status of other EC member States. Outbreaks of both classical swine fever and FMD in France, Spain and Luxembourg had complicated and delayed the response to the regionalization request.

137. Import restrictions on meat and meat products

Raised by:	Switzerland
Supported by:	
Dates raised:	June 2002 (G/SPS/R/27, paras. 10-12)
Relevant document(s):	G/SPS/GEN/321
Solution:	
Status:	Not reported

492. Switzerland reported that following the outbreak of BSE in Switzerland, the United States had banned imports of meat and meat products from Switzerland (G/SPS/GEN/321). The ban applied also to meat products processed in Switzerland with meat imported from countries free of BSE, such as Argentina or Brazil. Switzerland had a low incidence of BSE in terms of the OIE International Animal Health Code and the US measure did not follow the international standards. Moreover, the US double inspection procedure was in violation of the SPS Agreement. Bilateral consultations had clarified some of the questions raised by Switzerland, and would hopefully soon lead to a resumption of trade in meat and meat products. The European Communities requested to be informed of the outcome of the discussions between Switzerland and the United States.

493. The United States noted that there was a further complication pertaining to the FMD status of certain countries providing meat to Switzerland for processing and subsequent export to the United States.

189. US prohibition on the use of specified risk materials and requirements for disabled cattle

Raised by:	Argentina
Supported by:	
Dates raised:	March 2004 (G/SPS/R/33, paras. 68-69)
Relevant document(s):	G/SPS/N/USA/844
Solution:	
Status:	Not reported

494. Argentina stated that notification G/SPS/N/USA/844 was published on 23 January 2004 as a standard, non-emergency notification. The final date for comments was on 12 April, 2004 but the proposed date of adoption and entry into force was on 12 January 2004; hence Members did not have adequate opportunity for comment. Argentina was required to comply with the same requirements imposed on countries affected with BSE although Argentina had never had a case of BSE and complied with the requirements to be considered free of BSE. The United States was requested to clarify this matter.

495. The United States explained that the USDA had instituted a number of interim measures on 12 January 2004 after the announcement of a presumptive case of BSE in Washington State on 23 December 2003. Under the US regulatory system, interim final rules were enforced immediately but there was a concurrent comment period of 90 days. The comment period for G/SPS/N/USA/844 would expire on 12 April 2004. Members that were free of BSE and interested in seeking recognition of alternate control measures equivalent to the US measures as announced in G/SPS/N/USA/844, 845 and 846, were encouraged to submit their comments within the deadline for consideration in the development of a final set of BSE rules.

203. US rule on materials derived from cattle and record-keeping requirements

Raised by:	Argentina, China
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 72-75)
Relevant document(s):	G/SPS/N/USA/933 and 934
Solution:	
Status:	Not reported

496. Argentina noted that notifications G/SPS/N/USA/933 and 934 were published as regular notifications but were of immediate and compulsory implementation despite giving a timeframe for comments. Furthermore, Argentina was recognized as free of BSE but had to comply with the same requirements imposed on countries affected with BSE. The United States was requested to recognize the different disease status of Members as required in Article 6 of the SPS Agreement. China was concerned that the product description in the notification was too general and the HS tariff codes for the products covered by the two measures should be included. The notifications broadly included all trading partners exporting human food or cosmetics to the United States without taking into account the BSE status of different countries or regions. It was not necessary to restrict products from countries free of BSE nor should manufacturers be required to keep relevant records. These measures impeded international trade and the United States should provide scientific justification for its deviation from international standards and modify its measures accordingly.

497. The United States explained that notification G/SPS/N/USA/933 prohibited the use of materials derived from cattle in human food, including dietary supplements, and in cosmetics. Prohibited cattle materials included specified risk materials such as brain and spinal tissue, small intestine of all cattle, material from nonambulatory disabled cattle, material from cattle not inspected and passed for human consumption and mechanically separated beef. These restrictions were put in place to reduce the risk associated with BSE and the human disease variant Creutzfeldt-Jakob disease. The FDA issued an interim final rule effective immediately with a 90-day comment period ending on 12 October 2004 and would consider modifications on the final rule based on comments received. The requirements on prohibited cattle materials were imposed without exceptions to any products or ingredients of products manufactured in or imported into the United States. However, the United States recognized that a country's BSE status might merit consideration as the final rule was being developed. To this effect, the United States was seeking comments on the issue of equivalence as it related to BSE risk management requirements, as well as on standards to apply when determining another country's BSE status, providing an exemption for BSE free countries. The FDA and USDA were working to develop a harmonized US position on exempting other countries from respective requirements related to BSE which might be based, at least in part, on a country's BSE status as determined by the OIE.

498. Notification G/SPS/N/USA/934 was issued at the same time as G/SPS/N/USA/933 and required manufacturers and processors of human food and cosmetics that were manufactured from, processed with or otherwise contained material from cattle to establish and maintain records demonstrating that foods and cosmetics were in compliance with the interim final rule. The comment period of the proposed record-keeping rule ended on 13 August and the comments were currently being reviewed. The United States would notify the Committee of any changes incorporated in the final rule. The United States would include the HS codes as requested by China via a corrigendum to the two notifications.

Plant Health

37. Actions taken by local governments

Raised by:	Chile
Supported by:	
Dates raised:	October 1997 (G/SPS/R/9/Rev. 1, para. 47)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

499. Chile noted that legal actions taken by local governments could disrupt trade flows. For example, Californian judges had requested the US Department of Agriculture (USDA) to undertake an environmental analysis before allowing imports. In another instance, after Chilean phytosanitary authorities had taken a decision regarding the entry of weeds, they were threatened to be subject to legal proceedings initiated by the exporting country, unless the exporting country was declared a "low-risk" or a "zero-risk" country. Another related issue concerned the need for the streamlining or reform of national regulatory frameworks. As many as five signatures were sometimes required to clear the entry of goods into a territory.

59. Interim rule affecting solid wood packaging material

Raised by:	Hong Kong, China
Supported by:	European Communities
Dates raised:	November 1998 (G/SPS/R/13, paras. 3-12), March 1999 (G/SPS/R/14, paras. 2-3), October 2001 (G/SPS/R/25, para. 35)
Relevant document(s):	G/SPS/GEN/107, G/SPS/N/USA/137, G/SPS/N/CAN/44
Solution:	
Status:	Not reported

500. In November 1998, the United States provided information on an amendment of the regulations applicable to unmanufactured wood, adding treatment and documentation requirements for imports from China, including Hong Kong, China. Hong Kong, China found the rule arbitrary and discriminatory. Although Hong Kong, China recognized that fumigation with methyl bromide was effective, it was concerned that the use of this substance had undesirable side-effects on human health and the environment. Bilateral consultations with the United States had taken place. The United

States encouraged Members to comment on its draft measure. Canada indicated that it had also imposed a measure on unmanufactured wood imports from China to avoid introduction of the Asian Longhorned Beetle. A technical expert would be sent to Hong Kong, China to study ways to implement this measure with a minimal disruption of international trade. In March 1999, the United States announced that an advance notice of proposed rule making had been published on 20 January 1999, and that comments were welcome until 22 March 1999. The European Communities indicated that it had been monitoring similar problems, and would provide more information at a later date. In October 2001, Hong Kong, China reported that no new developments had occurred.

121. Imports of clementines

Raised by:	European Communities
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, paras. 7-10), June 2002 (G/SPS/R/27, paras. 58-59)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

501. The European Communities reported that on 30 November 2001, USDA APHIS announced an immediate temporary ban on citrus fruit imports from Spain following two reported interceptions of live Mediterranean fruit fly larvae. The finds were made in cold-treated clementines from Spain stored in close proximity to, and possibly even mixed with, fruits from other sources. Imports of Spanish citrus into the United States had taken place in accordance with a protocol agreed in 1987 comprising pre-shipment inspection, cold treatment, checks at the point of entry and measures that should be taken in the event of pest findings. The European Communities considered the US measure disproportionate to the extent and nature of the findings given the impact on trade, and discriminatory since other foreign suppliers, also using cold treatment, could still export clementines to the United States. The European Communities was also dismayed by the US decision to study revisions to the cold treatment procedure and issue a final rule accordingly – a procedure which would take a considerable period of time.

502. In June 2002 the European Communities reported that Spain and the United States continued bilateral efforts to find a resolution to this problem. The European Communities expressed concern as to whether exports would be allowed to resume by the following season on the basis of a new import protocol, given that the slow procedures being followed by the United States might not be concluded in time for the new season. The European Communities indicated that if this were to occur they might invoke the dispute resolution procedures. The United States expressed appreciation for the cooperation of the Spanish authorities in the matter and noted that the comment period had been extended in order to permit all relevant parties the opportunity to comment on the US risk assessment.

153. Restrictions on imports of Chinese potted plants in growing medium

Raised by:	China
Supported by:	European Communities
Dates raised:	November 2002 (G/SPS/R/28, paras. 43-45), March 2004 (G/SPS/R/33, paras. 21-22)

Relevant document(s):	G/SPS/N/USA/431 and addendum
Solution:	
Status:	Not reported

503. China indicated that US prohibitions on the importation of Chinese penjing in growing medium continued almost six years after the risk analysis had been finished and the protocol had been signed. The United States had relied on the excuse of domestic legal procedures and the need to coordinate work between the relevant government agencies to delay solving the problem. China requested the United States to notify its work procedures concerning the removal of measures prohibiting imports of plants and plant products in compliance with the transparency provisions of the SPS Agreement. China failed to understand why the United States had proposed to solve only the problem of the importation of one of the types of penjing plants in growing medium, instead of considering the five types for which the risk analysis had been completed. The European Communities supported the concerns raised by China and noted that they had run into the same difficulties with other varieties of potted plants. The European Communities urged the United States to find a rapid solution to the problem.

504. The United States noted that the issue of penjing in growing medium had been the subject of extensive discussions with China. The United States had been working actively to evaluate China's proposed importation, but the importation of plants in growing medium was more complicated from a risk mitigation perspective than importation of bare root plants. While examination of bare root plants could detect certain pests or disease problems, inspection of potted plants necessarily involved the removal of the plant from the pot and the growing medium, and could damage the plant and reduce its commercial value. Although the assessment of the risk to plant health posed by the importation of the five species of penjing was essentially concluded, other risks needed to be evaluated before determination if the importation presented an acceptable risk. US regulatory requirements for imported plants and growing medium reflected the need to prevent the introduction of pests and disease that could seriously undermine or compromise native ecosystems, as well as cultivated plants, and this work was ongoing. The 1997 protocol between the United States and China reflected agreement on the technical issues relating to production, inspection, and quarantine requirements for Chinese penjing that were necessary but not sufficient conditions for imports to occur. The protocol could not take effect until the risk assessments had been completed, and the necessary regulatory and notification processes had run their course. The United States acknowledged the importance that China attached to this issue, and indicated their commitment to reaching a mutually satisfactory resolution as soon as possible.

505. In March 2004, China stated that the US rule on the importation of artificially dwarfed plants in growing media from China was unnecessary and not viable given China's production system. China's proposed measures were rejected by the United States. The United States reported that the risk analysis for five varieties of penjing was completed. On 16 January 2004, a final rule authorizing the importation of five varieties of Chinese origin penjing plants in approved growing media had been published and notified as G/SPS/N/USA/431/Add1. This rule built upon an existing regulation that was first published in August 2002 and notified as G/SPS/N/USA/431. The 2002 rule remains applicable and required high risk artificially dwarfed plants, including penjing, to be produced in phytosanitary secure conditions for two years prior to export. However, plants less than two years in age were not subject to the two-year quarantine requirement due to a lower risk profile. This new regulation provided China with additional market opportunities and the United States would continue bilateral discussions with China.

216. Restrictions on Ya pears imports

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

506. In March 2005, China reported that, at the end of 2003, the US Animal and Plant Health Inspection Service (APHIS) had suspended imports of Ya pears from China on the grounds that new species of the fungus Alternaria sp. had been found. The Chinese Government had undertaken cooperative studies with the United States and finally obtained a result satisfactory to both Chinese and US specialists. However, US authorities had not yet made any decision based on the above results and imports of pears from China were still suspended.

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

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

228. Import procedures for fruits and vegetables

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

509. In June 2005, the European Communities observed that EC exports of fruits and vegetables were experiencing lengthy inspection procedures that because of the highly perishable nature of the

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

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

511. The United States replied that its import procedures were transparent and WTO-consistent. Pesticide residue levels on fruits coming into the United States had to be approved by the US Environmental Protection Agency (EPA). Pesticides did not have to be produced in the United States, but to be registered on the EPA list of authorized pesticides. The United States imported very substantial volumes of fresh fruits and vegetables from about 150 countries and the value of imports had increased by 97 per cent over the past ten years.

URUGUAY

CONCERNS RELATED TO MEASURES MAINTAINED BY URUGUAY

Animal Health and Zoonoses

154. Risk assessment on BSE

Raised by:	Canada, United States
Supported by:	
Dates raised:	November 2002 (G/SPS/R/28, paras. 89-92), April 2003 (G/SPS/R/29, para.78, 81)
Relevant document(s):	G/SPS/N/URY/5/Rev.1
Solution:	Resolved with Canada.
Status:	Partially resolved

512. The United States observed that Uruguay had notified its adoption of the EC BSE geographical base risk approach for classifying countries. The United States recalled its BSE-free status and the Harvard risk assessment on BSE, and asked that Uruguay take these into account. Canada indicated that it was providing information to Uruguay which would confirm Canada's status as free of BSE. The European Communities noted that the EC risk classification on BSE was never intended to serve as the international norm. Members should continue efforts to develop OIE risk classifications in relation to BSE at the international level. The European Communities hoped an agreement would be reached in the OIE by June-July 2003.

513. Uruguay stated that it was highly dependent on animal product exports. If BSE appeared in Uruguay it would not only affect the health and life of people and animals, but would have an economically devastating effect. Uruguay had adopted the emergency measures due to the growing number of countries with BSE over the last year and the increased risk of introducing the disease into the country. According to OIE data, at the end of 2000 there were 12 countries with local outbreaks,

while that figure currently stood at 22. Uruguay had adopted the risk assessment criteria established by the European Communities until such time as the OIE produced a list of countries classified in relation to BSE, and would review its legislation when the OIE finished its work in this area.

514. In April 2003, Canada reported that Argentina and Uruguay had agreed to undertake their own BSE risk assessment instead of relying on the EC BSE risk assessment as the basis for their BSE-related measures and classification of countries. Uruguay stated that it was dependent on meat related products for 8 per cent of its GDP. Since 1996, a number of emergency measures had been taken to ensure that BSE did not enter the country. In 2001, a decree was promulgated which would restrict food products on the basis of their BSE categorization. At the present time, this decree was suspended and bilateral discussions were ongoing. Information from both Canada and the United States was being reviewed and final categorization of both country's BSE status should be concluded within a short period of time.

515. In September 2004, Canada reported that the issue of Uruguay's BSE measures had been resolved with Uruguay.

CERTAIN MEMBERS

CONCERNS RELATED TO MEASURES MAINTAINED BY CERTAIN MEMBERS

Food safety

63. Information on dioxin

Raised by:	European Communities
Supported by:	
Dates raised:	July 1999 (G/SPS/R/15, paras. 17-22), March 2000 (G/SPS/R/18, para. 19), June 2000 (G/SPS/R/19, para. 9)
Relevant document(s):	G/SPS/GEN/123 and Add.1-4
Solution:	
Status:	Partially resolved

516. In July 1999, the European Communities provided information on the dioxin contamination which had occurred in Belgium in January 1999, and on the steps it had taken to manage the health risks. Many Members had responded by imposing trade restrictions. The European Communities stressed that there was no longer any justification for maintaining import bans, regretting that several Members had not notified their bans. The European Communities reserved its right to take action with regard to unjustified trade barriers.

517. Malaysia expressed disappointment to be receiving information at such a late stage. It would only be in a position to lift its import ban when it was fully satisfied that there was no more danger from EC products. Australia, Canada, Chile, Brazil, South Africa and the United States appreciated the information provided by the European Communities throughout the dioxin crisis. Australia and the United States had notified any action taken with respect to dioxin. Canada had banned Belgian imports, but was reviewing the products and areas covered by the ban. The Philippines indicated that its measures had taken into account the EC measures regarding dioxin, and were being reassessed.

518. The WHO noted that it had convened an expert consultation in 1998 to evaluate the tolerable daily dose of dioxin to which humans could be exposed without harm. Codex reported that at the July 1999 meeting of the Codex Alimentarius Commission, countries had requested that an intergovernmental group prepare a code of practice on animal feed. The European Communities added that it had established a working group within its Standing Committee on Animal Nutrition which was examining legislation regarding animal nutrition to prevent future accidents.

519. In March 2000, the European Communities provided an update on the dioxin situation. While some Members had adjusted their trade measures as the situation evolved, others continued to apply unnecessarily strict measures. The European Communities looked forward to receiving answers to the questions it had raised in G/SPS/GEN/123/Add.3.

520. In June 2000, the European Communities explained that all previously restricted products could be circulated and exported without any additional certification. While there was a general acceptance by Members that EC and Belgian products no longer represented a health risk, some Members had neither lifted their measures nor responded to a January 2000 letter requesting that they remove them. The European Communities repeated that it reserved its right to take any necessary action with regard to unjustified trade barriers.

Animal Health and Zoonoses

103. FMD-related import restrictions

Raised by:	Argentina, European Communities
Supported by:	Bolivia, Brazil, Uruguay
Dates raised:	July 2001 (G/SPS/R/22, paras. 56-64), October 2001 (G/SPS/R/25, paras. 20-23), June 2002 (G/SPS/R/27, paras. 48-49), November 2002 (G/SPS/R/28, paras. 52-53)
Relevant document(s):	G/SPS/GEN/269
Solution:	New Zealand, Indonesia, Ukraine and Switzerland lifted restrictions against EC member States after they regained FMD-free status. Problems with other Members persisting. Resolved with Argentina.
Status:	Partially resolved

521. In July 2001, the European Communities observed that many Members had imposed restrictions on products that had been treated in accordance with the international standard to destroy the FMD virus, and had kept them in place beyond the recognized waiting period of three months. The principles of proportionality, justification of measures and regionalization in accordance with the OIE Code and Article 6 had not been followed. Although border controls within the European Communities had been eliminated, they had been replaced by other control instruments.

522. Argentina expressed concern that many products from Argentina were facing scientifically unjustified restrictions that violated Articles 2.1, 3.1 and 5.1 and the OIE Code. Plant products, except straw and forage, should normally not be affected by FMD-related measures.

523. Australia explained that it was asking for reasonable information to allow a scientific judgement in the face of a different clinical presentation in sheep. Recently, additional restrictions on Denmark and Austria and on race horses from the European Communities had been lifted. Australia would re-examine the restrictions as requested information was received. The United States clarified

that its FMD measures on EC countries affected only the United Kingdom, Ireland, the Netherlands and France. The United States had lifted restrictions on EC member States that had not had FMD cases in May 2001, and was currently evaluating the situation in France and Ireland. The OIE representative drew the attention of the Committee to G/SPS/GEN/266, which in Annex 1 contained a list of countries that had been confirmed as free of FMD without vaccination, including several EC member States. G/SPS/GEN/240 contained the relevant Code chapter on FMD, which had been thoroughly reviewed between 1990 and 1997 and should be taken into account by WTO Members.

524. The European Communities noted its long tradition of good trade with Uruguay and Argentina, and hoped the situation would soon be resolved. In the EC view, Australia's questionnaire was out of proportion with the problem to be addressed. It was not acceptable that non-affected countries received a questionnaire corresponding to an affected country wanting to be declared free of FMD. The European Communities appreciated the US reaction regarding unaffected countries, and asked the United States to follow the example of Canada and New Zealand in handling the crisis. Brazil and Bolivia expressed concern that Members were departing from the principles of the SPS Agreement.

525. In October 2001, the European Communities expressed concern over continued Australian restrictions, which affected member States in which there had been no outbreaks of FMD and were based on a failure by these countries to reply to an Australian questionnaire. Canadian and US restrictions against Greece also affected a member State where no outbreak had occurred and that had been declared FMD-free in the meantime. The European Communities also brought to the attention of the Committee continued US, Japanese and Mexican restrictions against France, the Netherlands and Ireland. New Zealand, Indonesia, Ukraine and Switzerland had lifted restrictions against member States after they had regained FMD-free status.

526. Australia reported that it was now able to recognize all member States except the United Kingdom as FMD-free. Japan stated that bilateral consultations were continuing with France, Ireland and the Netherlands. The United States reported that import restrictions continued to apply to the United Kingdom, the Netherlands, France and Ireland. The United States recognized that the disease outbreaks in these countries were limited, no remaining technical concerns existed, and the United States was taking the necessary regulatory actions to publicize the proposals in the Federal Register. Concerning Greece, the product ban pre-dated the current FMD outbreak and was a separate issue. Canada recalled that Greece had only recently expressed an interest in exporting meat products to Canada, and the request was being evaluated.

527. In June 2002, the European Communities reported that most Members had lifted their restrictions related to the FMD outbreak in Europe. The OIE had just revised its list of countries recognized as FMD-free, which included all 15 EC member States. However, some Members continued to apply restrictions or requirements which served as administrative bans on EC products, in particular UK meat and meat products. Argentina noted that they also continued to suffer long-term negative effects from measures kept in place without justification.

528. Japan reported that the Domestic Animal Infectious Disease Control Law had been amended on 14 June, permitting resumption of imports of pork meat and products from France and Ireland. The comment period regarding a proposed lifting of the import ban on Dutch products had just concluded, and the ban could be lifted as early as mid-July.

529. In November 2002 the European Communities noted disappointment that some unnecessary and unreasonable FMD trade barriers continued to affect EC exports, in violation of the SPS Agreement. Mexico imposed a number of BSE-related measures that had a detrimental effect on exports from Austria, although Austria had registered no cases of FMD in the course of the 2001 outbreaks. Bilateral meetings on the matter had been unsuccessful. Mexico indicated that it

recognized Austria as being FMD free but were waiting to receive a request from Austria for plant inspections. Argentina supported the comments made by the European Communities with regards to FMD-related measures taken by certain Members.

530. In March 2004, Argentina informed the Secretariat that the issue had been resolved with respect to Argentina's concerns.

124. Notifications related to Avian Influenza

Raised by:	United States
Supported by:	
Dates raised:	March 2002 (G/SPS/R/26, paras. 63-66)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

531. The United States noted that although international standards existed with regard to avian influenza, differences in the understanding and interpretation of these standards was resulting in unjustified trade barriers. The OIE considered highly pathogenic avian influenza as a List A disease, however low pathogenic strains were not considered to have any significant animal health or socio-economic consequences. However, some Members had restricted imports of poultry products from the United States due to a strain of low pathogenic avian influenza in two poultry flocks in the state of Virginia. The United States requested that the OIE national and regional offices take a pro-active role in advising their members on this matter. Japan observed that there was a possibility of variation in the strains, with a case of a low pathogenic strain causing an outbreak that later varied to a high pathogenic strain. Japan had provided scientific evidence in this regard to the United States, and believed that its measure was fully justified.

532. The OIE confirmed that the OIE Animal Health Code referred to highly pathogenic or virulent avian influenza; most strains of avian influenza were of low pathogenicity and did not cause economic effects. However, the OIE Manual of Standards also made reference to low pathogenicity viruses in laboratory tests through mutation showing highly pathogenic effects in the field. The OIE was working on a definition to include such viruses. The Philippines noted that the OIE Manual also included some text related to low pathogenic strains as these strains could also cause clinical disease and problems.

190. Regionalization and recognition of animal disease free status

Raised by:	European Communities
Supported by:	
Dates raised:	March 2004 (G/SPS/R/33, para. 52), June 2004 (G/SPS/R/34, paras. 35-36), October 2004 (G/SPS/R/35, para. 87), March 2005 (G/SPS/R/36/Rev.1, paras. 52-54)

Relevant document(s):	Raised orally
Solution:	
Status:	Partially resolved

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

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

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

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

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

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

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

Raised by:	European Communities
Supported by:	
Dates raised:	October 2005 (G/SPS/R/39, paras. 46-48), February 2006 (G/SPS/R/39, paras. 46-48), June 2006 (G/SPS/R/42, para. 21), October 2006 (G/SPS/R/43, para. 37)
Relevant document(s):	Raised orally
Solution:	
Status:	Partially resolved

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

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

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

542. In June 2006, the European Communities reiterated concerns that certain Members imposed unjustified measures on EC exports of an excessively broad range of poultry products, including heat-treated ones. Only a limited number of EC member States had confirmed cases of avian influenza and many had rapidly regained disease-free status. The European Communities urged all Members to base their measures on scientific principles and apply the concept of regionalization rather than banning imports from all EC member States.

543. In October 2006, the European Communities informed the Committee that although a significant number of WTO Members had lifted their bans on EC products according to international standards, some Members still had unjustified restrictions in place. The European Communities would continue to seek the lifting of these import restrictions.

Plant Health

26. Phytosanitary issues in general

Raised by:	United States
Supported by:	
Dates raised:	March 1997 (G/SPS/R/7, para. 12)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

544. The United States noted that the mere existence of a plant disease or pest in traded agricultural goods did not necessarily constitute a risk to the importing country if, for scientific reasons, the pest or disease could not establish itself in the area into which it was being imported. Likewise, if the disease or pest was already prevalent in the importing country, import controls were unlikely to serve any significant health objective. The United States urged Members to ensure compliance with the principle of national treatment as well as other key provisions.

183. Implementation of ISPM 15

Raised by:	Chile, Uruguay
Supported by:	Argentina, Bolivia, China, Colombia, Mexico, Paraguay
Dates raised:	October 2003 (G/SPS/R/31, paras. 135-137), March 2004 (G/SPS/R/33, para.151)
Relevant document(s):	G/SPS/GEN/435
Solution:	
Status:	Not reported

545. Chile stated that Members should take into consideration the zone of production of the wood and allow sufficient time for countries to adapt their treatment methods to meet the ISPM 15 standard when adopting the measures. Compliance with the standard required the private sector to make large scale investments, a certification process to register the mark on packaging, establishment of an

accreditation system, and the setting up of supervisory and audit systems. Chile's concerns were detailed in document G/SPS/GEN/435.

546. Uruguay stated that it was the implementation of the standard that was the problem. Argentina supported the comments make by Chile and Uruguay. Mexico stated that problems could arise with implementing this standard and that discussions on this issue should continue in the context of the SPS Committee. Paraguay and Colombia supported the comments made by others.

547. Canada commented that the standard was not new as it had been adopted by the IPPC in June 2002. Canada had planned to implement the standard in June 2003 but delayed its implementation until January 2004 to give Members sufficient time to adapt wood treatment processes. Canada would provide a transition period and recommended that the issue be discussed under Agenda Item 7(a) regarding the use of international standards.

548. In March 2004, Uruguay indicated it was providing national level certification of wood packaging which was used as support material for exported products. However, Uruguay needed more time to apply the different phases of the certification procedure. Uruguay emphasized the need to recognize the valid use of alternative sanitation methods (as described in section 3.3 of ISPM 15), particularly in cases in which countries did not have the necessary infrastructure. Argentina, China and Bolivia shared Uruguay's concern about ISPM 15, particularly relating to the explicit implementation timelines.

204. Notification by Members of implementation of ISPM 15

Raised by:	European Communities
Supported by:	
Dates raised:	October 2004 (G/SPS/R/35, paras. 83-84)
Relevant document(s):	Raised orally
Solution:	
Status:	Not reported

549. The European Communities stated that a number of Members had informed the Committee of their intentions to put in place wood packing requirements based on ISPM 15. These wood packing requirements would also cover wooden barrels and casks containing distilled spirits or other alcoholic beverages. Although ISPM 15 was not clear on the coverage of products, it provided guidance on products that might be excluded such as manufactured wood. The wooden barrels and casks typically used to contain distilled spirits and wine were subject to heat treatment at 100 degrees centigrade for 40 minutes, exceeding ISPM is guidelines of 56 centigrade for 30 minutes.

550. It was apparent that the drafters of ISPM 15 did not intend to cover wooden barrels used to contain alcoholic beverages such as spirits. Some countries had clearly indicated in their domestic legislation that ISPM 15 did not apply to wooden barrels containing spirits. The European Communities noted that the IPPC was organizing a global training workshop in 2005 to explain the application of ISPM 15 but requested the IPPC to clarify the matter as soon as possible in order to allow trade to continue.