



# **The Agreement on the Application of Sanitary and Phytosanitary Measures**

**Rolando Alcala  
Agriculture and Commodities Division  
World Trade Organization**

## Bird Flu



## BSE



## Plant Pests



## BIRD FLU...



ME??  
I FEEL  
GREAT!  
HONESTLY!  
JUST FINE.  
NOT EVEN A  
HINT OF A  
SNIFFLE...  
NEVER BEEN  
BETTER...

©Fewing  
fewings.ca

## SARS



## MRL



POLICE NOTICE  
FOOT & MOUTH  
DISEASE  
Keep Out



WTO OMC

# Agreement on the Application of Sanitary and Phytosanitary Measures

**The right to protect human, animal or plant life or health**



**Avoiding unnecessary barriers to trade**



# SPS Measures

## Definition - Annex A

### *A measure taken to protect:*

Human or  
animal health

*from*

risks arising from additives,  
contaminants, toxins or disease  
organisms in food, drink, feedstuff

Human life

*from*

plant- or animal-carried diseases

Animal or  
plant life

*from*

pests, diseases, disease-causing  
organisms

A country

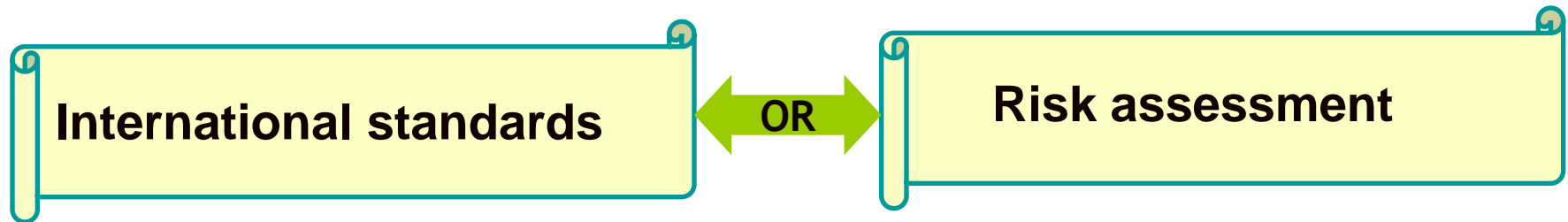
*from*

other damage caused by entry,  
establishment or spread of pests

# Scientific justification

## Articles 3 & 5

**Measures must be based on:**



# *Scientific justification*

## **Harmonization**

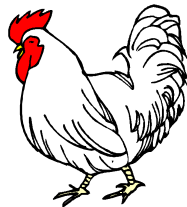
### Article 3

#### **Standard-setting organizations**

*food safety*  
**CODEX**



*animal health*  
**OIE**



*plant health*  
**IPPC**



**Codex = Joint FAO/WHO Codex Alimentarius Commission**

**OIE = World Organisation for Animal Health**

**IPPC = International Plant Protection Convention (FAO)**





## *Scientific justification*

# **Exception: Provisional measures**

## Article 5.7

### **Members may provisionally adopt SPS measures**

- ✓ when relevant scientific information is insufficient
- ✓ on the basis of available information

### **In such circumstances, Members shall**

- ✓ seek to obtain additional information to assess risk
- ✓ review the measure within a reasonable period of time



# Equivalence

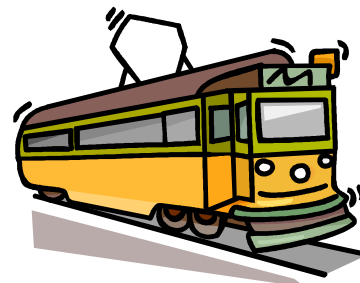
## Article 4

If the exporting country **objectively demonstrates** that its measures achieve the ALOP of the importing country



Members shall

accept SPS measures of other Members as **equivalent**





# Pest- or disease-free areas Article 6 (Regionalization)

Members shall ensure that their SPS measures are adapted to the SPS characteristics of an

“area”

all of a country

part of a country

all or parts of  
several countries



# Control, Inspection and Approval Procedures

## Article 8 and Annex C

- **No undue delays**
- Information requirements: limited to what is necessary
- No less favourable treatment for imports:
  - Fees – no discrimination, only to cover costs
  - Siting of facilities
- If positive list approach used for food additives, use international standard until a determination is made



# Key Provisions of the SPS Agreement

1. Non-discrimination
2. Scientific justification
  - harmonization
  - risk assessment
  - consistency
  - least trade-restrictiveness
3. Equivalence
4. Regionalization
5. Transparency
6. Technical assistance/special treatment
7. Control, inspection and approval procedures



# The SPS Committee:

## What does it do?

- Implementation of SPS Agreement
- Reviews compliance
- Potential trade impacts
- Co-operation with technical organizations



# SPS Committee: Who is on it?

- All 159 WTO Members
- Observer governments (acceding members)
- Intergovernmental organizations

**4 new WTO Members in 2012:**  
Montenegro (April), Russia (Aug.),  
Samoa (May) and Vanuatu (Aug.)

**2 new WTO Members in 2013:**  
Lao PDR (Feb) and Tajikistan  
(March).



# SPS Committee Meetings

- **3 regular meetings per year**
  - ❖ often preceded by informal meetings to discuss specific topics (S&D, Third review, Private Standards, Ad Hoc consultations, etc... )
- **Special meetings/workshops**
  - ❖ for example on transparency-enquiry points, SPS coordination, etc.





# **SPS Committee:**

## **How to address SPS-related Trade Problems**



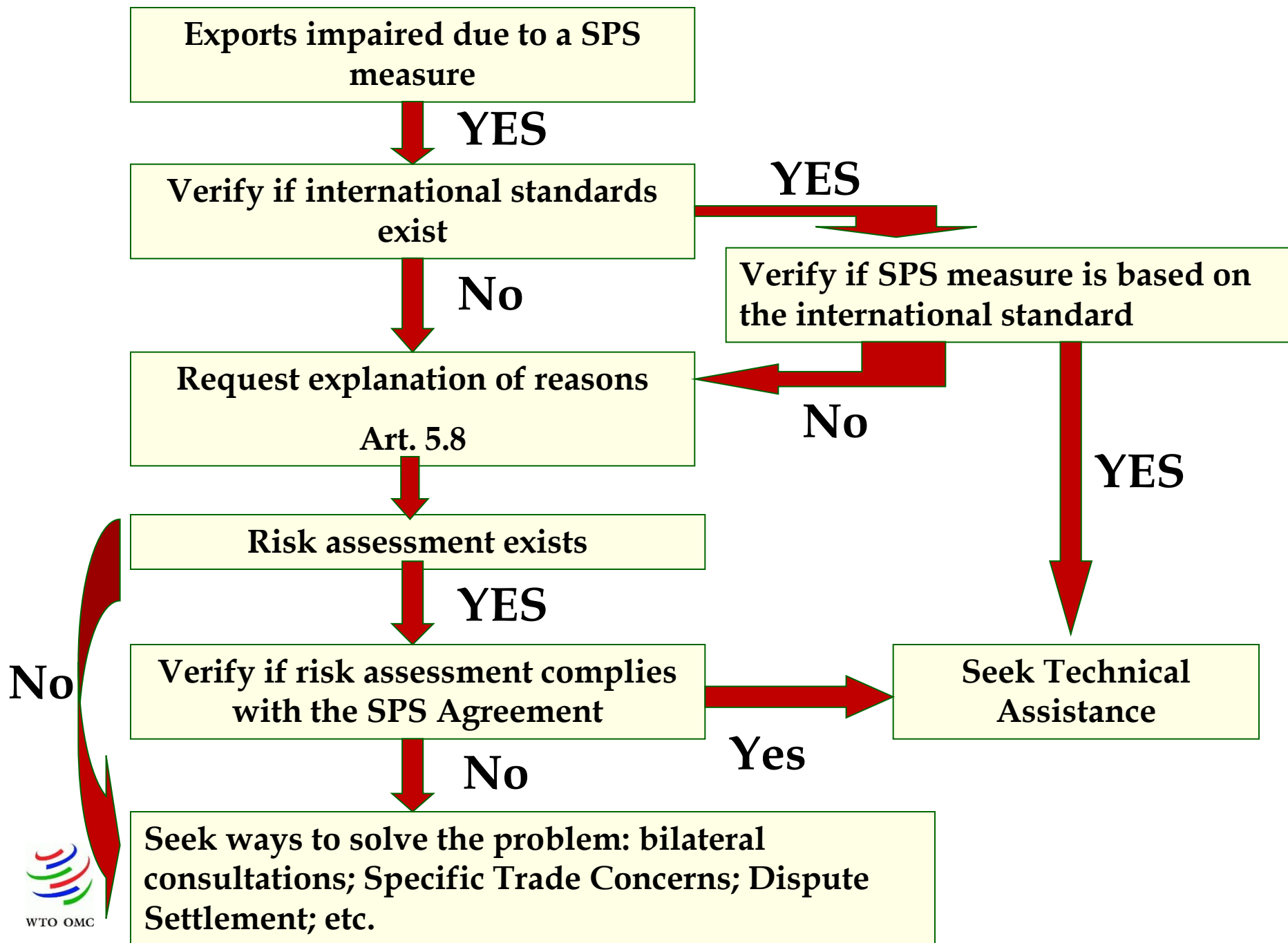
## **Remember: Conditions under which a SPS Measure can be taken:**

- **Restrain trade to protect health**
- **Measures based on scientific principles (*international standards or risk assessment*)**
- **Non-discriminatory**
- **No disguised restrictions**



What series of questions should an exporting country ask when experiencing a SPS trade concern with a trading partner?





# Ways to Address SPS Trade Concerns

1. Bilateral and/or Regional Efforts
2. SPS Committee – Specific Trade Concerns
3. Good Offices by the Chair of the SPS Committee
4. WTO Dispute Settlement System



# 1. Bilateral and/or Regional Efforts

## Suggested Actions:

- Contact Enquiry Point
- Informal discussions on the margins of the SPS Committee meetings
- Request information through diplomatic channels



# Ways to Address SPS Trade Concerns

1. Bilateral and/or Regional Efforts
2. SPS Committee – Specific Trade Concerns
3. Good Offices by the Chair of the SPS Committee
4. WTO Dispute Settlement System

## 2. SPS Committee – STCs

### Suggested Actions:

- Consult previous Specific Trade Concerns (STCs)
- Communicate intention to raise an STC
  - At least 11 calendar days before the meeting
  - In writing
  - Inform the other Member concerned
- Seek support from other interested Members
- Present the STC at the SPS Committee Meeting





# Ways to Address SPS Trade Concerns

1. Bilateral and/or Regional Efforts
2. SPS Committee – Specific Trade Concerns
3. Good Offices by the Chair of the SPS Committee
4. WTO Dispute Settlement System

### 3. Good Offices - Chair of the SPS Committee

#### *Article 12.2*

**“The Committee shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues. [...]”**

**Procedure currently under discussion in the SPS Committee  
(G/SPS/W/259/Rev.7)**



# Ways to Address SPS Trade Concerns

1. Bilateral and/or Regional Efforts
2. SPS Committee – Specific Trade Concerns
3. Good Offices by the Chair of the SPS Committee
4. WTO Dispute Settlement System



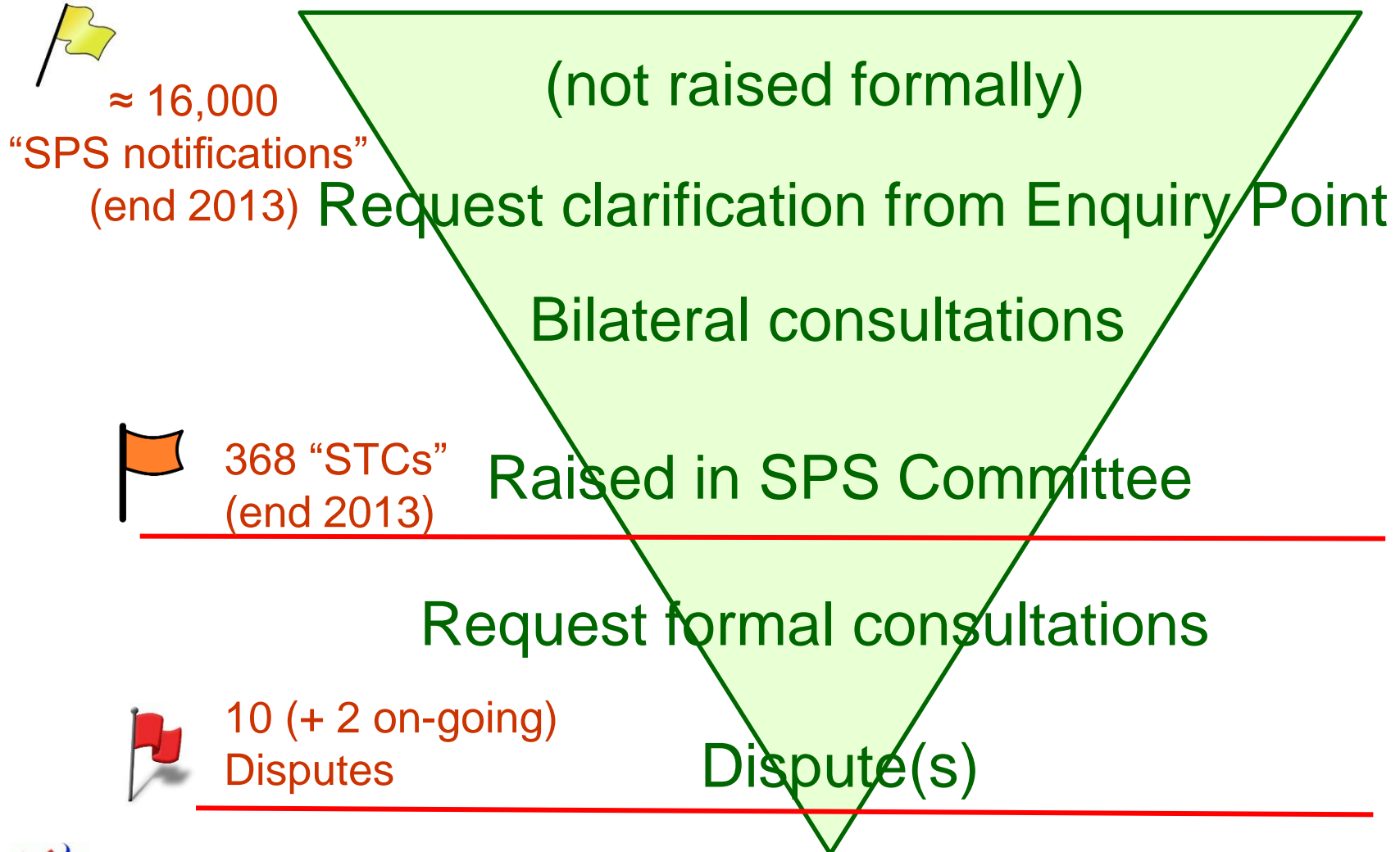
## 4. WTO Dispute Settlement System

### What is a WTO dispute ?

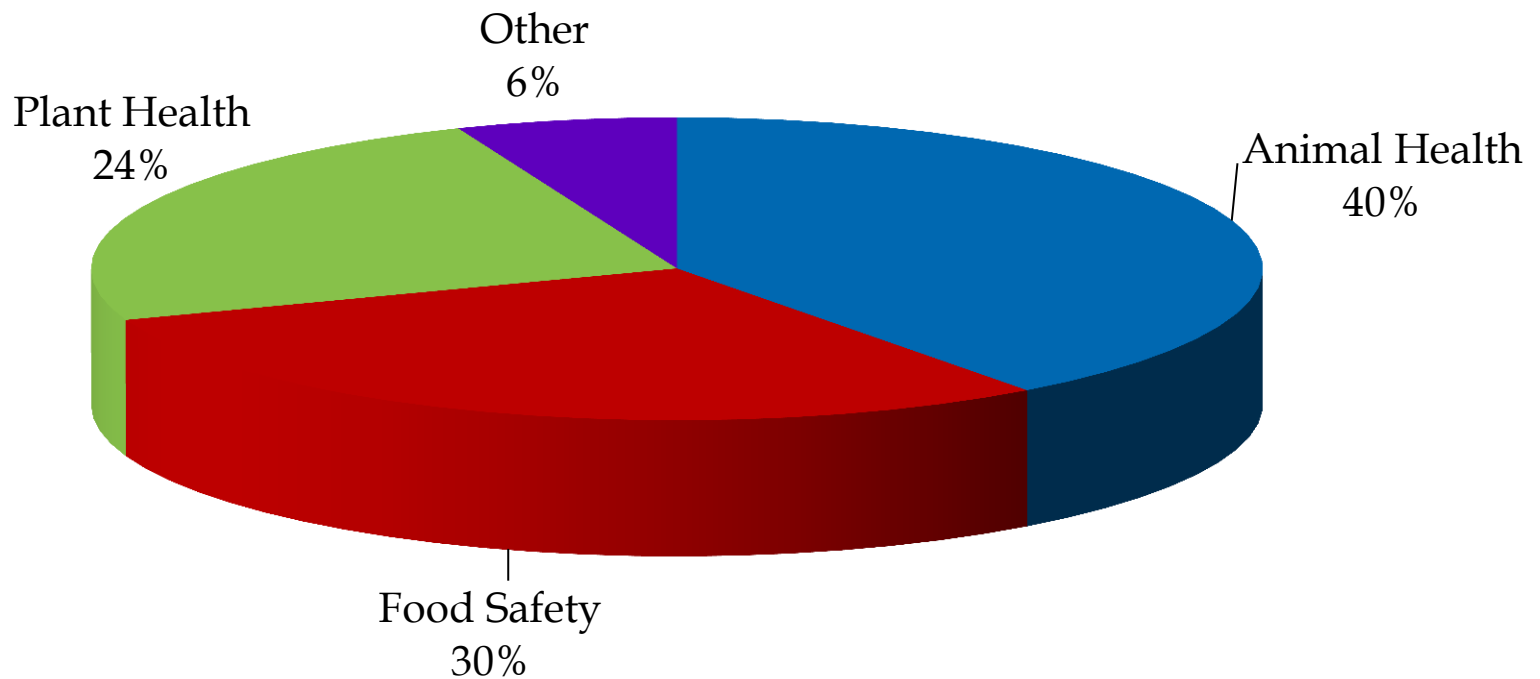
- Arises when a Member believes another is violating an agreement or commitment made
- Only involves governments
- Not a WTO dispute until the Member notifies WTO Secretariat that a dispute exists



# Implementation & monitoring role of the SPS Committee



# Specific Trade Concerns by Subject (1995-2012)



G/SPS/GEN/204/Rev.13



# Top 10 Members Maintaining Measures Complained Against

Member	Number of STCs
European Union	67
United States	40
Japan	27
China	20
Australia	16
Brazil	14
Indonesia	13
Korea, Republic of	12
Canada	11
Mexico	11



# Top 10 Members Raising Specific Trade Concerns

Member	Number of STCs
United States	80
European Union	71
Argentina	39
China	28
Brazil	25
Canada	24
India	13
Australia	9
Thailand	9
Chile	8

# STCs – Examples

MEASURE	RAISING	AGAINST	SUPPORTING	FIRST DATE RAISED
Import procedures for fruits and vegetables	EU	USA	Argentina	01/06/2005
Restrictions on poultry and poultry products because of avian influenza	Chile	Albania, Croatia	USA	20/10/2010
Restrictions on table grapes, apples and pears	South Africa	Thailand	Senegal	19/10/2011
Import restrictions on beef due to BSE	Brazil	China		16/10/2013
Import restrictions on fishery products due to nuclear contamination	Japan	Korea		16/10/2013



# Where to get more information?

SPS gateway

<http://www.wto.org/sps>

Dispute settlement gateway

[http://www.wto.org/english/tratop\\_e/dispu\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e.htm)

[\*\*rolando.alcala@wto.org\*\*](mailto:rolando.alcala@wto.org)

