

FRENCH RESTRICTIONS ON PET FOOD IMPORTS
AND THE SPS AGREEMENT

Submission by the United States for the Meeting on 1-2 July 1997

Introduction

1. In September 1996, France adopted new requirements for pet food production, restricting the use of certain animal products or proteins. The provisions prohibit the use of certain "high risk" material. Specifically, the French regulation states that the following material could not be used in the manufacture of pet food:

- high risk material as mentioned in paragraphs a, b, c, d, h, i, j of EC Directive 90/667/EC Article 3;
- animals affected with transmissible spongiform encephalopathies (TSE) or their parts;
- brain tissue, spinal cord, and eyes of bovines aged more than 6 months and ovines or caprines aged more than 1 year.

2. The regulation requires that manufacturers exclude materials from the rendering process that are commonly considered safe by renderers.

3. The French regulation has stopped all US pet food exports to France. In December 1996, the European Union adopted decisions permitting countries to use alternative heat treatment systems for non-mammalian material used in the production of non-mammalian (e.g. poultry) protein meal. French implementation of the EU decisions would permit pet food made from poultry meal to enter, thus restoring 80 percent of US pet food trade with France. However, France has refused to implement these decisions.

4. Since September, USDA has raised its concerns with the French Ministry of Agriculture in Paris numerous times at the technical level and in a letter from Secretary Glickman to Minister Vasseur. France has not provided the United States with information regarding the scientific basis for the restrictions.

Available Scientific Evidence/Relevant International Standards

5. The objective of the French regulation was ostensibly to address the risk of TSE. However, the United States is free of bovine spongiform encephalopathy (BSE) and has offered guarantees that no species infected with TSE would be used in pet food production. Moreover, there are no known spongiform encephalopathies in poultry or fish. If France's intent with respect to non-mammalian

protein was to guard against the transmission of other risk agents, France has not identified those agents. Therefore, the United States questions France's scientific basis for France's regulation.

6. There is no specific international standard for pet food. However, various standards for the animal health basis of material which would be included in pet food do exist. Of these, the most relevant, in this case, would be the Office international des épizooties (OIE) Zoosanitary Code Chapter on BSE, since that is the risk agent identified by France. This standard only references rendered material containing ruminant protein originating in countries with a high incidence of BSE, stating that such material should not be traded. All other material, especially non-mammalian material, is acceptable under this standard.

Preliminary Assessment in Light of WTO Obligations

7. France's ban on imported pet food raises a number of serious concerns with respect to WTO obligations, including those set out in the SPS Agreement. This measure is not based on scientific evidence or risk assessment. France has not demonstrated the scientific principle underlying the restriction of non-mammalian material as a protective measure against TSE or any other risk factor. To the extent that the ban is intended to address concerns with TSE, it is also not based on relevant, recently updated OIE standards, recommendations, and guidelines. France has provided no explanation for its rejection of these elements of the OIE Code. Finally, although this measure appears to fall within the meaning of Annex B of the SPS Agreement, it has not been notified to the WTO.