

**UNITED STATES – RESTRICTIONS ON THE IMPORT OF
MEAT AND MEAT PRODUCTS**

Submission by Switzerland

A. BACKGROUND

1. Following the outbreak of Bovine Spongiform Encephalopathy (BSE) in Switzerland, sanitary measures have led to market access restrictions affecting the export of a number of Swiss products. The United States upholds import restrictions on meat and meat products originating in countries with a low incidence of BSE, including Switzerland.

2. As of 9 February 2001, the United States Department of Agriculture (USDA) has suspended the importation of all ruminant meat, meat products, and other edible protein products that have been stored, processed, or otherwise associated with a facility located in Europe and Oman. All other importations are only eligible for entry after USDA/APHIS (Animal and Plant Health Inspection Service) has verified that these products have not been commingled with ruminant products from Europe and Oman.

3. These import restrictions also apply to meat products, which have been processed in Switzerland with meat imported from countries free of BSE (thus eligible for export to the United States), such as Argentina or Brazil. Before February 2001, the export of meat products processed in Switzerland with beef imported from countries free of BSE were approved based on annual on-site inspections of processing plants by the USDA/FSIS (Food Safety and Inspection Service). The USDA/FSIS confirmed that Switzerland has in place processing procedures that guarantee non-commingling of products meeting the US requirements with other products. However, since the entry into force of the new import restrictions on 9 February 2001, the USDA has required additional on-site inspections by the USDA/APHIS and banned Swiss exports to the United States. The costs for these double inspection procedures carried out by USDA/FSIS and USDA/APHIS would have to be paid by the Swiss export industry.

4. Notwithstanding several bilateral contacts between the relevant governmental authorities starting at the beginning of 2001 and comprehensive information provided by Switzerland, the authorities of the United States have up to now denied market access to Swiss products.

B. LEGAL CONSIDERATIONS BASED ON THE SPS AGREEMENT

5. Switzerland is considered as a country with a low incidence of BSE in the terms of Article 2.3.13.5 of the OIE *International Animal Health Code*. BSE reached its peak in 1994/95 and since then the situation has continuously been improving. Switzerland implemented all measures in compliance with the OIE recommendations in order to eradicate the disease in the Swiss cattle population and to protect consumer health.

6. The United States prohibits the import of meat and meat products from countries with a low incidence of BSE. Switzerland meets all the requirements to export meat and meat products laid

down in Article 2.3.13.15 of the OIE *International Animal Health Code* for countries with a low incidence of BSE. Therefore, the import ban applied by the United States is in contradiction to this international standard.

7. Article 3.1 of the SPS Agreement requires Members to base their SPS measures on international standards, guidelines and recommendations, where they exist. According to Article 3.3, Members may only introduce or maintain SPS measures which result in a higher level of protection than would be achieved by measures based on the relevant international standards, if there is a scientific justification, or as a consequence of the level of protection a Member determines to be appropriate based on a risk assessment in accordance with the relevant provision of Article 5. In particular, Articles 5.4 and 5.6 require that Members take into account the objective of minimizing negative trade effects and ensure that SPS measures are not more trade-restrictive than required to achieve an appropriate level of protection.

8. With regard to control, inspection and approval procedures, the provisions of Annex C of the SPS Agreement have to be observed. Members have, in particular, to ensure that such procedures are undertaken and completed without undue delay and that information requirements are limited to what is necessary for appropriate control, inspection and approval procedures.

C. SPECIFIC QUESTIONS

9. In light of the above and in accordance with Article 5.8 of the SPS Agreement, Switzerland would like to obtain from the United States further information on the following:

- (a) Have the new import restrictions applied by the USDA since 9 February 2001 been notified to the WTO Secretariat?
- (b) Have these import requirements been based on the relevant OIE standards? Should this not be the case, could the United States provide the scientific justification of the import prohibition in consideration of Articles 3.1 and 3.3 of the SPS Agreement?
- (c) Could the United States provide Switzerland with comprehensive information on the risk assessment carried out in accordance with the provision of Article 5 of the SPS Agreement to justify the relevant measures?
- (d) Could the United States indicate to which extent the provision of Article 2.3 of the SPS Agreement is applied, requiring Members not to arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members?

D. CONCLUSIONS

10. Switzerland recognizes the difficulties the United States might encounter in evaluating the relevant data submitted by other Members directly concerned by the relevant sanitary measures. However, Switzerland is deeply concerned about the current US import requirements for meat and meat products which do not appear to be based either on the relevant international standards or on available scientific evidence. Furthermore, the double control and inspection procedures required by the USDA lead to an undue delay, inappropriate costs for the Swiss export industry, and unreasonable restrictions on trade.

11. In view of the above considerations, Switzerland formally requests the authorities of the United States to lift the import restrictions imposed on meat and meat products from Switzerland and to provide answers to the above questions in due course.
