

SOUTH AFRICA – RESTRICTIONS ON THE IMPORT OF BEEF AND PORK

Submission by Brazil

1. In a fax letter dated 14 February 2002, the Department of Agriculture of the Republic of South Africa informed the Brazilian Government that South Africa "decided not to allow the importation of beef and pork from the States of Brazil where vaccination against foot-and-mouth disease is practiced". Justifying their measure, South Africa said further "Although countries such as the European Union have resumed importations from Brazil we cannot afford to make any decision that may jeopardise the success of our own application for FMD freedom".
2. In 14 May 2002, the Brazilian Government informed South Africa that "due to the lack of technical and scientific facts presented by the Department of Agriculture of the Republic of South Africa to validate its decision, the Brazilian authorities will notify the Sanitary and Phytosanitary Committee (SPS) of the World Trade Organization (WTO) over the issue".
3. South Africa's ban on imported beef and pork raises 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. South Africa has not demonstrated the scientific principle underlying the restriction of meat from regions in Brazil considered free from FMD with vaccination as a protective measure to assure for South Africa the status of free from FMD at the OIE or any other risk factor this may represent to the importing country, as required by Article 5 of the SPS Agreement. To the extent that the ban is intended to address concerns with FMD, it is also not based on relevant, recently updated OIE standards, recommendations, and guidelines. South Africa has provided no valid explanation for its rejection of these elements of the OIE Code. Finally, although this measure appears to fall within the provisions of Annex B of the SPS Agreement, it has not been notified to the WTO.
4. 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.
5. In view of the above considerations, Brazil requests that South Africa lift the ban on Brazilian beef and pork, or at least accept risk mitigation procedures as established in the OIE Code and in practice for Brazilian meat exports to a great number of markets world-wide.