

**HONDURAS – RESTRICTION IN ABSOLUTE TERMS ON THE ENTRY  
OF POULTRY MEAT FROM COSTA RICA**

Questions Posed by Costa Rica

Revision

1. The Government of Costa Rica is requesting the Government of Honduras to explain how the measure notified in document G/SPS/N/HND/3 is consistent with the provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and international standards recognized by the Organization for the sanitary control of animal products.
2. The Government of Costa Rica is requesting the Government of Honduras to provide scientific evidence showing that the measure, which is restricting poultry meat imports from Costa Rica, is the least trade-restrictive measure necessary to ensure the protection of avian health in Honduras and therefore does not constitute an unnecessary and disguised barrier to trade, in accordance with WTO disciplines.
3. In particular, the scientific evidence which the Government of Honduras is requested to provide must include evidence showing that the diseases avian infectious laryngotracheitis and avian salmonellosis can be introduced through the trade in poultry meat from Costa Rica, inasmuch as the International Office of Epizootics (OIE) does not require these diseases to be subject to sanitary control for the purpose of authorizing international trade in poultry meat.
4. The Government of Costa Rica is requesting the Government of Honduras to show that the restriction imposed on the entry of its products has been applied on the same terms to imports from other trading partners with similar sanitary conditions, in accordance with the principles of non-discrimination and most-favoured-nation treatment established by the WTO in the SPS Agreement. This implies that the Government of Honduras has authorized imports of poultry meat only from countries that have been declared free of the four avian diseases.

## **HONDURAS – RESTRICTION IN ABSOLUTE TERMS ON THE ENTRY OF POULTRY MEAT FROM COSTA RICA**

### Communication by Costa Rica

#### **I. BACKGROUND**

1. Poultry exports are an important source of foreign currency for Costa Rica and constitute a very dynamic sector of its economy. In 1999 those exports amounted to US\$2.4 million, rising in 2001 to US\$2.8 million. For some time Honduras has been the principal market for the export of these products. In 1999, 53 per cent of Costa Rican exports of poultry meat went to that market, a figure that increased to 66 per cent in the year 2000 and to 86.1 per cent in 2001. Thus, the importance of Honduras as a market for Costa Rican poultry had been increasing in both absolute and relative terms. During all those years Costa Rican exports had had no problem from a sanitary point of view in entering Honduras, nor is there any indication that the sanitary status of that country has been affected by trade in that product.

#### **II. CHANGES IN THE CONDITIONS OF ACCESS**

2. In October 2000, Honduras gave notification through document G/SPS/HND/3 that it was planning to implement a decree under which imports of poultry meat would only be authorized if the exporting country could certify, *inter alia*, that its farms were free from salmonella pollorum and Gallinarum and that the country was free from avian infectious laryngotracheitis.

3. In March 2002 there was a sudden change in the sanitary conditions of access required by Honduras for imports of poultry meat, leading to the imposition of a complete ban on the entry of that product from Costa Rica.

4. The new conditions of access that Honduras requires of Costa Rica consist in the imposition of a measure under which imports of poultry meat are only admitted from countries whose avian sanitary status is equivalent to the status that in theory exists in that country. According to the Honduran authorities that country is free of four avian diseases: (1) avian influenza, (2) avian infectious laryngotracheitis, (3) Newcastle disease and (4) salmonella pollorum and gallinarum, also known as avian salmonellosis. Certificates that farms are free of these last two diseases may also be produced.

5. Costa Rica questions the validity of the requirements laid down by Honduras for avian infectious laryngotracheitis and salmonella pollorum and gallinarum. The other two diseases are not at issue since Honduras has recognized, both verbally and in practice, that Costa Rica is a country free from Newcastle disease and avian influenza. Since 1990 Costa Rica has been working on a system for the surveillance of these diseases, which was improved and implemented in June of this year. In fact, the United States has recognized Costa Rica as a country free from Newcastle disease since 1999. More recently, Colombia carried out an inspection of the same plants and concluded that Costa Rica's sanitary status was satisfactory and fulfilled its requirements.

#### **III. PROVISIONS VIOLATED BY HONDURAS**

6. Costa Rica considers that the restriction of access involved in the requirement placed by Honduras on Costa Rica for a sanitary control of avian infectious laryngotracheitis and salmonella pollorum and gallinarum with regard to the trade in poultry meat is inconsistent with the obligations established by the multilateral trading system, in particular with regard to the disciplines of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

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

### (a) Scientific evidence – assessment of risk

7. Article 2.2 of the SPS Agreement stipulates that sanitary measures must be based on sufficient scientific evidence so that they may not be used as unjustified restrictions on trade. A further obligation contained in Article 5.1 of the Agreement is that sanitary measures must be based on an assessment of risk. Thus, any sanitary measure that is imposed and maintained without sufficient scientific evidence and without a prior assessment of risk is contrary to the disciplines of the Agreement.

8. In the case at issue, the measure imposed by Honduras lacks any scientific evidence, and consequently Costa Rica considers that it constitutes a disguised restriction on trade.

### (b) Harmonization

9. The harmonization of sanitary and phytosanitary measures is one of the main purposes of the SPS Agreement. This is understood to mean that through the application of Articles 3.1, 3.4 et seq of the SPS Agreement trade will be facilitated on the basis of measures backed up by scientific evidence. Article 3.2 of the Agreement states that sanitary and phytosanitary measures which conform to international standards are necessary and are presumed to be consistent with the WTO disciplines, which are the standards set by the international technical organizations recognized by the Agreement (CODEX, OIE, IPPC).

10. Even more to the point, Article 3.3 of the Agreement provides that if a Member country decides not to conform to the existing international standard for the application of a sanitary and phytosanitary measure there is no longer any presumption of consistency with the Agreement and the burden of proof is reversed.

11. With regard to the Honduran measure which prohibits the entry of poultry meat from Costa Rica, Honduras, in deciding not to comply with the international standard on this matter, does not enjoy the presumption of consistency with the SPS Agreement and must therefore take on the burden of proving with sufficient scientific evidence and assessment of risk that the measure imposed is necessary and proportionate.

### (c) Proportionality

12. In accordance with Article 5.6 of the Agreement, sanitary measures must be proportionate, which implies the obligation not to apply a measure that would involve a degree of restriction on trade greater than that required to achieve the appropriate level of sanitary protection.

13. In the case at issue, Costa Rica considers the measure applied by Honduras to be disproportionate since it restricts the entry of poultry meat from Costa Rica in absolute terms on the grounds that it fails to comply with the sanitary requirements for two diseases (salmonella pollorum and gallinarum, and laryngotracheitis) although there is no scientific evidence indicating that these diseases may be transmitted through trade in this product, as has been recognized by the OIE.

## **Standards established by the International Office of Epizootics (OIE)**

### (d) Mandate and activities of the OIE

14. The International Office of Epizootics (OIE), the only international entity recognized in the SPS Agreement (Annex A, paragraph 3) as an issuer of international standards, guidelines and

recommendations in the field of sanitary measures relating to animal health, has a mandate to establish lists of Member countries or zones officially recognized as free from certain diseases. In order to be declared a country free of a disease the veterinary administration of the interested country must complete a procedure previously defined by the OIE, on the basis of specially designed, scientifically based questionnaires.

15. The OIE is currently publishing lists of countries recognized by that organization as being free from foot and mouth disease, rinderpest and contagious bovine pleuropneumonia; the conditions for bovine spongiform encephalitis are in process of adoption. The preparation of lists of countries recognized as free of these diseases has been given priority because of their impact on international trade.

16. At present, the OIE does not have a list of countries recognized by that organization as being free of the four avian diseases of which Honduras has declared itself to be free. Honduras has declared itself to be a country free of these four diseases by availing itself of the opportunity afforded by the OIE for countries to declare themselves free of diseases for which there is still no specific OIE procedure for the official recognition of the status of Member countries with respect to the diseases in question.

17. Although the OIE affords Member countries the opportunity to declare themselves free of a disease, in such an eventuality it is indispensable that the importing countries receive the epidemiological data necessary to convince them of the fact, in accordance with the requirements of the OIE's International Animal Health Code relating to the diseases concerned.

(e) The OIE and the trade in poultry meat

18. As regards international trade in poultry meat, the International Animal Health Code establishes the right of the importing country to require that the exporting country be free only of avian influenza and Newcastle disease, both classified in the OIE's List A of diseases.<sup>1</sup>

19. However, the International Animal Health Code does not require the country exporting the poultry meat to have been declared free of avian infectious laryngotracheitis or avian salmonellosis, both of which are included in List B<sup>2</sup>, as a prerequisite for the authorization of international trade in that product. Neither does the Code mention an obligation on the part of the exporting country to produce certificates showing that its establishments are free of these diseases, as they are not considered to be transmissible via poultry meat. That means that, according to OIE standards, trade in poultry meat does not require any kind of sanitary control for the diseases salmonella pollorum and gallinarum or for avian infectious laryngotracheitis.

---

<sup>1</sup> The diseases included in the OIE's List A are transmissible diseases which have the potential for very serious and rapid spread, irrespective of national borders, which are of serious socio-economic or public health consequence and which are of major importance in the international trade of animals and animal products.

Reports on these diseases are submitted to the OIE with the frequency indicated in Articles 1.1.3.2 and 1.1.3.3 of the International Animal Health Code. Because of the seriousness of these diseases and the severity of their repercussions on international trade, States are under strict obligations to notify the first occurrence of a disease and any event relating thereto, in accordance with Article 1.1.3.3 of the International Animal Health Code.

<sup>2</sup> List B diseases are transmissible diseases which are considered to be of socio-economic and/or public health importance within countries and which are significant in the international trade of animals and animal products. Reports are normally submitted once a year, although more frequent reporting may in some cases be necessary to comply with Articles 1.1.3.2 and 1.1.3.3 of the International Animal Health Code.

20. This is due to the fact that there is currently not enough scientific evidence to show that these diseases can be transmitted through the import of poultry meat.

21. It is true that Chapter 2.7.5 of the International Animal Health Code provides that salmonella pollorum and gallinarum shall be subject to sanitary controls with regard to international trade in domestic birds, day-old birds and hatching eggs of domestic birds. However, this chapter does not establish any sanitary requirement for this disease with which the exporting country must comply with regard to trade in poultry meat.

22. In addition, Chapter 2.7.7 of the International Animal Health Code establishes sanitary regulations relating to avian infectious laryngotracheitis solely with regard to the trade in chickens, day-old birds and hatching eggs of chickens (live animals and reproductive material). Thus, there is, likewise, no measure contained in this chapter for the sanitary control of this disease in relation to the international trade in poultry meat.

(f) Technical opinion of the OIE

23. On 23 October this year Dr Vallat, Director-General of the OIE, issued a technical opinion at the request of the Director of Animal Health of Costa Rica, in which he stated that: "With regard to avian infectious laryngotracheitis and salmonella pollorum and gallinarum, there is no scientific evidence so far that these diseases may be transmitted via fresh poultry meat" (emphasis added).

24. Consequently, since that the measure imposed by Honduras restricting the entry of poultry meat from Costa Rica on the grounds that it does not fulfil the sanitary requirements relating to avian infectious laryngotracheitis and salmonella pollorum and gallinarum has no basis in any international standard, the onus of proof is therefore on Honduras to show that the measure is necessary and proportionate and that it is the least restrictive to achieve a proper level of protection. To date, Honduras has not informed Costa Rica of any scientific evidence that would show that either of these two diseases could affect Honduran sanitary status through the trade in poultry meat. Thus, contrary to what is stated in the Agreement for such cases, Honduras lacks any scientific evidence that would support the imposition of the measure. Consequently, Costa Rica considers that the measure is disproportionate and a disguised restriction on trade according to, Articles 2.2, 3.2, 3.3, 5.1, 5.4 and 5.6 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

#### IV. BILATERAL CONSULTATIONS

25. Costa Rica has held a considerable number of bilateral meetings in order to try to resolve this problem.

- Since the measure came into force in **March 2002**, the Government of Costa Rica has undertaken intense negotiations, in many different bodies and at all levels, with the Government of Honduras in an attempt to achieve an agreement regarding the sanitary requirements that Costa Rican poultry meat must fulfil in order to enter the Honduran market.
- In coordination with the authorities of the Ministry of Agriculture and Livestock of Costa Rica, the Government of Costa Rica has made a considerable effort to demonstrate, on the basis of technical criteria, that Costa Rica's sanitary status meets the international standards for the access of poultry meat to other markets and that it does not endanger the avian sanitary status of Honduras.

- On Costa Rica's initiative, the trade and agricultural authorities of the two countries met on **3 July** and **6 August** this year in Tegucigalpa in order to try to find a mutually satisfactory solution.
- On **30 August**, as a follow-up to the previous conversations, the directors of animal health of the two countries met in San José, Costa Rica, and signed what was thought to be an agreement to restore immediately the trade in poultry meat from Costa Rica to Honduras. That Agreement said in the relevant section that the countries "agree: to restore free trade in poultry and poultry products in both directions". (emphasis added). Three days after this Agreement was reached between the two parties, the Honduran authorities refused entry to a container of Costa Rican poultry meat, adducing as the reason changes in the interpretation of the agreement.
- In addition, and as a token of the interest and good faith of the Costa Rican sanitary authorities in guaranteeing to Honduras that there was no sanitary risk, Costa Rica agreed to take samples on each of the exporting farms in order to ensure that they were free of the two diseases (salmonella pollorum and gallinarum and avian infectious laryngotracheitis), even though this is not required by OIE standards or by the Agreement on the Application of Sanitary and Phytosanitary Measures.
- Costa Rica even tried to have recourse to the Central American Committee on Sanitary and Phytosanitary Measures so as to try to resolve the problem, but the meeting could not be held since Honduras stated that it would not be able to attend.
- Honduras put forward on 1 October this year a number of observations on those samples, which in accordance with the **Agreement of 30 August** had to be discussed or analysed in a further bilateral meeting. Costa Rica suggested two dates for such a meeting, but in both cases Honduras stated that it was impossible to meet.
- On **31 October** the Ministries of Agriculture of both countries, in a gesture of good will in an attempt to achieve a rapid solution to the dispute, agreed to hold a further technical meeting in order to resolve the problem. This latest move is very encouraging for Costa Rica which believes that it is still possible to achieve a rapid bilateral solution to this problem and re-establish the trade in poultry towards that country. However, despite that gesture of good will, Costa Rica considers it necessary to continue to explain this issue in this committee, given its tradition of respect for the rule of law and international commitments.

## V. CONCLUSION

26. In view of these considerations, the Government of Costa Rica formally requests the Honduran authorities to withdraw the restriction in absolute terms on the entry of poultry meat from Costa Rica and to reply in due course to the questions posed in this communication.

ANNEX I

Costa Rica

**Honduras' Share as a Country of Consignment of Exports of Poultry Meat  
1999-2001, In US\$**

<b>Country of consignment</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
Honduras	1,306,833	1,653,404	2,481,891
<i>Percentage of total</i>	<i>53.6%</i>	<i>66.0%</i>	<i>86.1%</i>
Rest of world	1,129,532	853,608	402,027
<b>Total exports</b>	<b>2,436,364</b>	<b>2,507,012</b>	<b>2,883,917</b>

Source: PROCOMER.

ANNEX 2

**WORLD TRADE  
ORGANIZATION**

G/SPS/N/HND/3  
12 October 2000

(00-4191)

Committee on Sanitary and Phytosanitary Measures

Original: Spanish

NOTIFICATION

<b>1. Member to Agreement notifying: <u>HONDURAS</u> If applicable, name of local government involved:</b>
<b>2. Agency responsible:</b> Ministry of Agriculture and Livestock, National Agricultural Health Service (SENASA)
<b>3. Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers may be provided in addition, where applicable). Regions or countries likely to be affected, to the extent relevant or practicable:</b> 0105.11.00; 0105.12.00; 0105.19.00; 0105.92.00; 0105.93.00; 0105.99.00; 0207.11.00; 0207.12.00; 0207.13.10; 0207.13.91; 0207.13.99; 0207.14.10; 0207.14.91; 0207.14.99; 0207.24.00; 0207.25.00; 0207.26.10; 0207.26.90; 0207.27.10; 0207.27.90; 0207.32.00; 0207.33.00; 0207.34.00; 0207.35.10; 0207.35.90; 0207.36.10; 0207.36.90; 0210.90.10; 0210.90.20; 0210.90.30; 0210.90.90; 0407.00.10; 0407.00.20; 0407.00.90; 0408.11.00; 0408.19.00; 0408.91.00; 0408.99.00; 0505.10.00; 0505.90.00; 1501.00.00 (poultry only); 1601.00.20; 1601.00.90; 1602.10.20 (poultry only); 1602.10.90; 1602.31.00; 1602.32.00; 0602.39.00  These restrictions apply to the following: live poultry, that is to say, fowls of the species <i>Gallus domesticus</i> , chicks, fertile eggs, ducks, geese, turkeys, and guinea fowl. They also apply to meat and edible offal of such poultry, eggs, feathers and other poultry parts; as well as to the fat and foods (sausages) made with meat of such poultry.
<b>4. Title and number of pages of the notified document:</b> <ul style="list-style-type: none"><li>- Plant and Animal Health Law. Decree No. 157-94, published in <i>La Gaceta</i> (Official Journal) of 13 January 1995.</li><li>- Regulations for the Campaign for the Prevention, Control and Eradication of Velogenic Newcastle Disease. Executive Resolution No. 998-99, published in <i>La Gaceta</i> of 29 September 1999.</li><li>- Regulations for the Campaign for the Control and Eradication of Avian Salmonellosis. Executive Resolution No. 997-99, published in <i>La Gaceta</i> of 28 September 1999.</li><li>- International Office of Epizootics (IOE) procedures to prove the non-existence (absence) in Honduras of infectious laryngotracheitis and avian influenza.</li></ul>



5.	<p><b>Description of content:</b> These Standards contain the legal, administrative, technical and scientific instruments for the prevention, control and eradication of the avian diseases mentioned, the aim of which is to declare Honduras free of these diseases.</p> <p>Only poultry, products and by-products thereof, from countries with equivalent legally-established animal health programmes for the prevention, control and eradication of avian diseases may be imported. The exporting country must be able to guarantee that its farms are free of Newcastle disease and avian salmonellosis (<i>s. gallinarum</i> and <i>s. pollorum</i>) and that the country is free of avian influenza and avian infectious laryngotracheitis.</p>
6.	<p><b>Objective and rationale:</b> <input checked="" type="checkbox"/> food safety, <input checked="" type="checkbox"/> animal health, <input type="checkbox"/> plant protection, <input checked="" type="checkbox"/> protect humans from animal/plant pest or disease, <input type="checkbox"/> protect territory from other damage from pests: Honduras is currently affected by avian salmonellosis, and in March 2000 six cases of Newcastle disease, velogenic, viscerotropic form, were detected in chicken-fattening farms and commercial egg farms. Consequently, Honduras' current status is that of a country affected by sporadic outbreaks of Newcastle disease, with an animal health campaign at the control stage. The aim of these health campaigns is therefore to eradicate and declare areas free of or with a low prevalence of Newcastle disease and avian salmonellosis, while at the same time, following the procedures established by the IOE, to show that Honduras is free of avian influenza and infectious laryngotracheitis.</p>
7.	<p><b>An international standard, guideline or recommendation does not exist</b> <input type="checkbox"/>. <b>If an international standard, guideline or recommendation exists, give the appropriate reference and briefly identify deviations:</b></p> <ul style="list-style-type: none"> <li>- Animal Health Code of the International Office of Epizootics (IOE).</li> <li>- Programmes for the Control and Eradication of Avian Diseases in the United States, Mexico, Chile and Costa Rica, adapted to the circumstances of the animal health status of Honduras.</li> </ul>
8.	<p><b>Relevant documents and language(s) in which these are available:</b></p> <ul style="list-style-type: none"> <li>(a) Plant and Animal Health Law. Decree No. 157-94, published in <i>La Gaceta</i> of 13 January 1995 (available in Spanish).</li> <li>(b) Regulations for the Campaign for the Prevention, Control and Eradication of Velogenic Newcastle Disease. Executive Resolution No. 998-99, published in <i>La Gaceta</i> of 29 September 1999 (available in Spanish).</li> <li>(c) Regulations for the Campaign for the Control and Eradication of Avian Salmonellosis. Executive Resolution No. 997-99, published in <i>La Gaceta</i> of 28 September 1999 (available in Spanish).</li> <li>(d) International Office of Epizootics (IOE) instructions to prove the non-existence (absence) of infectious laryngotracheitis and avian influenza (available in Spanish).</li> </ul>
9.	<p><b>Proposed date of adoption:</b> Entry into force upon publication in <i>La Gaceta</i>.</p>
10.	<p><b>Proposed date of entry into force:</b> 1 November 1999</p>

**11. Final date for comments:**

**Agency or authority designated to handle comments:** [ ] National notification authority, [ X ] National enquiry point, or address, fax number and E-mail address (if available) of other body: National Agricultural Health Service (SENASA)

**12. Texts available from:** [ ] National notification authority, [ X ] National enquiry point or address, fax number and E-mail address (if available) of other body:

Secretaría de Agricultura y Ganadería  
Servicio Nacional de Sanidad Agropecuaria (SENASA)  
Telephone/Fax: (504) 231-0786  
(504) 232-1096  
E-mail: sanimal@hondudata.com