

**AUSTRALIAN IMPORT PROHIBITION ON SAUCES
CONTAINING BENZOIC ACID**

Statement by the Philippines at the meeting of 11-12 November 1998

1. The Philippines initially raised this concern at the meeting of the Committee in October. Since that meeting, the Philippines has made bilateral contacts with Australia through the Philippine Mission in Canberra in order to follow up on this issue. To date, however, the issue remains unresolved and as such we reiterate our concern before this Committee.
2. Australia prohibits all imports of sauces containing benzoic acid except those originating from New Zealand. According to Australian authorities, the rationale for allowing imports of these products from New Zealand is based on Australia's "transitional arrangement" relevant to the Australian-New Zealand Agreement for the Development of a Joint Food Standard System. Under this arrangement, Australia permits the imports of foodstuffs from New Zealand which comply either with the Australian Food Standards or with the New Zealand Food Regulations. The New Zealand Food Regulations allow the use of benzoic acid in sauces.
3. In addition, the "transitional arrangement" includes a dual standard clause, which would allow Australian food manufacturers to apply the New Zealand food regulations. This means that the sale of sauces containing benzoic acid manufactured in Australia would likewise be allowed in that country.
4. At the meeting of the Committee last October, Australia mentioned the lack of Codex standard for benzoic acid in sauces. Australia also underscored that the Acceptable Daily Intake (ADI) on benzoic acid suggests that health safety is an important issue related to this preservative.
5. We would like to point out that the lack of an international standard, and Australia's apparent concern over health safety, are not relevant issues in this case, as is clearly demonstrated by Australia's so-called "transitional arrangement" to allow the entry of sauces containing benzoic acid from New Zealand.
6. The Philippines is of the strong view that the Australian measure is clearly inconsistent with Article 2 of the SPS Agreement. In particular, it is inconsistent with Article 2.3 of the Agreement which provides that "Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical conditions prevail, including between their territory and that of other Members."
7. Australia informed us that there is a current proposal in Australia to allow the addition of benzoic acid in sauces by the middle of 1999. There is no possibility, however, of advancing the approval of said proposal through an application with the Australian-New Zealand Food Authority at this time.

8. This discriminatory measure has been in place since 1996 and has long since prevented the entry of Philippine products to the Australian market. The Committee would therefore understand if the Philippines does not take any comfort in the above announcement by Australia. There is nothing in the Agreement which grants a grace period for discriminatory practices under "transitional arrangements". In our view, the only just remedy for this case is the immediate lifting of the ban. We therefore urge Australia to bring its regulation in line with the SPS Agreement by immediately lifting the ban.
