

EU prepares WTO action over US trade sanction law - Brussels, 15 January 2009

In a clear attempt to escalate the EU-US hormones dispute the outgoing US has decided to activate the so called "carousel" trade sanctions legislation and thereby allow the US to revise, every six months, the list of goods subject to sanction. It is more punitive than the current measure which imposes duties of 100% on certain products. The value of the sanctions amounts to 116.8M € on a fixed list of goods. It is clear that exporters will face increased uncertainty as their goods could be subject to tough duties at short notice. The trade implications of this measure will be significant.

The EU Trade Commissioner Catherine Ashton said: "Transatlantic trade needs champions, not sanctions. This action is most regrettable in view of many attempts by the EU to find a solution to the long-standing trade dispute over hormone-treated beef. A large number of EU exporters will be hit by these illegal sanctions. We look forward to working with the new administration to address this situation."

It is clear that this move by the US administration means that we will have no choice but to start preparations in order to take this to the WTO. A great deal of effort had been put into finding a mutually agreed settlement to this on going dispute. This task has now become much more difficult. As the WTO has not yet taken a view on our current hormone regime dating from 2003, the US sanctions are illegal.

The "carousel" measure was due to have been referred to the WTO when it was introduced in 2000, but we held off as the US agreed to suspend it without ever implementing it. We are convinced the "carousel" measure is illegal as it breaches the WTO requirement of equivalence between the damage caused by the sanction or ban and the retaliation proposed.

Background – History of the dispute

EU ban on hormone treated beef has been in place since the early 1980s.

The US and Canada challenged our non-discriminatory ban at the WTO in 1996. The Appellate Body found in 1998 that the rules were not consistent with one provision of the WTO Agreement on Sanitary and Phytosanitary Measures and in 1999 the US and Canada were given permission to impose sanctions to the value of 116.8bn€.

In October 2003 a new EC Hormones Directive was issued, based on thorough scientific grounding. One hormone (oestradiol 17) has been found to cause and promote cancer and harms genes and is subject to a permanent ban. The EU has invoked the precautionary principle in relation to five further hormones and these remain under review. In 2007 the European Food Safety Authority's (EFSA) said there were no grounds to call for a revision of earlier risk assessments which found risks to human health from residues in hormone treated meat.

The US and Canada rejected the evidence underpinning the 2003 Hormones directive and maintained their sanctions. In 2004 the EU challenged these sanctions. The Appellate Body was unable to complete the analysis of the WTO – compatibility of the EU legislation due to mistakes made by the Panel in gathering factual information and consequently did not give a definitive view on the legality of the US and Canadian sanctions. It did however clarify certain aspects of SPS agreement. Furthermore, it recommended that the EU, US and Canada start compliance

proceedings to see if the current EU legislation remedied the breaches of WTO had identified in 1998, and as a result the US and Canada should end their sanctions.

On 22 December 2008 the EU asked for consultation at the WTO in order to examine the legality of our own restrictions on hormone-treated beef. We have a strong case as we removed the WTO inconsistencies identified by the Appellate Body in 1998, thus making the restrictions on hormone treated beef compliant with the WTO agreement.

In November 2008, in a case brought by the EU against the continued sanctions, the Appellate Body found that the EU, US and Canada should engage in so-called compliance proceedings to verify the WTO compatibility of the current EU legislation and the legality of the sanctions imposed by the US and Canada on EU exports.

More on the original disputes : [measures affecting meat and meat products](#) and [measures affecting livestock and meat](#)

More on the dispute on the sanctions : complaints against [Canada](#) and [the United States](#)