

appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries. The information collected is used to assess the impact of the proposed project on the statutory TVA programs and determine if the project can be approved. Rules on the application for review and approval of such plans are published in 18 CFR part 1304.

Wilma H. McCauley,

Manager, Information Access.

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**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket No. 301-62a]

**Implementation of WTO
Recommendations Concerning EC—
Measures Concerning Meat and Meat
Products (Hormones)**

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comment; notice of public hearing.

SUMMARY: May 13, 1999 is the deadline for the European Communities' (EC) implementation of the recommendations and rulings of the World Trade Organization (WTO) Dispute Settlement Body (DSB) concerning the EC's ban on imports of U.S. meat from animals treated with hormones. EC representatives have indicated that the EC is unlikely to meet this deadline. The United States Trade Representative (USTR) is seeking written comments on the action that the USTR should take to exercise U.S. rights under Article 22 of the WTO Dispute Settlement Understanding (DSU) if the EC fails to implement the DSB recommendations by May 13, 1999.

DATES: Requests to testify at the public hearing and written testimony for the public hearing are due by noon on Wednesday, April 14, 1999; the public hearing will be held beginning at 8:00 a.m. on Monday, April 19, 1999; written comments, in lieu of written and oral testimony, are due by noon on Friday, April 23, 1999; and rebuttal briefs, if needed, are due by 5:00 p.m. on Monday, April 26, 1999.

ADDRESSES: Room 100, 600 17th Street, NW, Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: Sybia Harrison, Staff Assistant to the Section 301 Committee, (202) 395-3419, for questions concerning Section 301 procedures and submissions filed in

response to this notice; Demetrios Marantis, Assistant General Counsel, (202) 395-2581, or Ralph Ives, Deputy Assistant U.S. Trade Representative, (202) 395-4620, for questions concerning the EC hormone ban or WTO procedures; or Joanna McIntosh, Associate General Counsel (202) 395-7203, for questions concerning Section 301, this notice, or WTO procedures.

SUPPLEMENTARY INFORMATION: In December 1985, the EC adopted a directive on livestock production restricting the use of natural hormones to therapeutic purposes, banning the use of synthetic hormones, and prohibiting imports of animals, and meat from animals, to which hormones had been administered. That directive was later declared invalid by the European Court of Justice on procedural grounds and had to be re-adopted by the Council, unchanged, in 1988 ("the Hormone Directive"). These measures became effective January 1, 1989, notwithstanding U.S. attempts to resolve this issue bilaterally and multilaterally, including through dispute settlement under the General Agreement on Tariffs and Trade (GATT).

On December 24, 1987, the President of the United States announced an increase in duties on selected European products in response to the Hormone Directive and related measures, but immediately suspended this action to promote a negotiated solution of the issue. [52 Fed. Reg. 49139]. The USTR terminated the suspension of the increase in duties in January 1989 when the EC began implementing the hormone ban against imports from the United States. [53 Fed. Reg. 53115]. The USTR subsequently modified the application of increased duties on a number of occasions.

Following entry into force of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement") on January 1, 1995, the United States and, later, Canada, proceeded with formal WTO dispute settlement procedures against the hormone ban. Prior to the establishment of the WTO panel, the EC replaced the Hormone Directive with another directive that re-codified and expanded the hormone ban. On May 20, 1996, the DSB established a dispute settlement panel ("the WTO panel") to examine the consistency of the hormone ban with the EC's WTO obligations. The members of the WTO Panel were selected as of July 2, 1996. On July 15, 1996, the USTR terminated the increase in duties on certain products of the EC that had been

imposed in response to the hormone ban. [61 Fed. Reg. 37309].

On August 18, 1997, the WTO panel issued its report finding that the hormone ban is not based on scientific evidence, a risk assessment, or relevant international standards in contradiction of the EC's obligations under the SPS Agreement. The Appellate Body issued its report on January 16, 1998 affirming that the hormone ban is not consistent with the EC's obligations under the SPS Agreement. Specifically, the Appellate Body concluded that the EC's hormone ban failed to satisfy the requirements of Articles 3.3 and 5.1 of the SPS Agreement because the risk assessments that had been performed did not support the ban on imports. In addition, the Appellate Body found that there was no risk assessment, as required by Article 5.1 of the SPS Agreement, for one of the hormones. At its February 13, 1998 meeting, the DSB adopted the Panel and Appellate Body reports on hormones.

The EC subsequently requested four years to implement the DSB recommendations, two years to conduct additional risk assessments and two years to revise its measures to reflect the results of those risk assessments. A WTO Arbitrator appointed to determine the reasonable period of time observed that the reasonable period should not be provided to "demonstrate the consistency of a measure already judged to be inconsistent," in response to the EC's arguments that it would need a substantial period to conduct additional risk assessments. [Para. 39 of the Award of the Arbitrator, WT/DS26/15]. The Arbitrator determined that the reasonable period of time for implementation was fifteen months and would expire on May 13, 1999.

To date, the EC has taken no action to implement the DSB recommendations and rulings. The EC has made no modifications to the hormone ban, but rather has initiated seventeen new risk assessments. In its status report for the March meeting of the DSB, the EC indicated that it does not expect to be in compliance by the May 13, 1999 WTO-mandated deadline.

On March 3-4, 1999, U.S. and EC officials held discussions in Washington to explore options to resolve this dispute. The United States presented a proposal for labeling U.S. beef as a way to address European consumers' concerns. However, the EC indicated that a resolution of this matter would be conditional on the completion of the additional risk assessments, which may not be completed until sometime in late 1999 or 2000, and other regulatory procedures.

Process for Suspending Concessions

If the EC fails to implement the DSB recommendations concerning the hormone ban by May 13, 1999, Article 22 of the WTO Dispute Settlement Understanding (DSU) permits the United States to suspend the application of concessions or other obligations accruing to the EC under the WTO Agreement. Article 22.2 of the DSU provides that the United States must seek authorization from the DSB prior to suspending concessions. Article 22.6 of the DSU provides that the DSB shall grant the requested authorization not later than thirty days after the expiration of the reasonable period, or by June 12 in this dispute, unless the EC objects to the level of suspension proposed.

If the EC objects to the level of suspension proposed, it may request that the assessment of that level be referred to arbitration. The DSU requires that such arbitration proceedings be completed within sixty days after the expiration of the reasonable period of time, or by July 12 in this dispute.

Following the completion of arbitration proceedings and upon request, the DSB must grant authorization to suspend concessions or other obligations consistent with the Arbitrator's decision. The United States may not suspend concessions or other obligations during the course of the arbitration proceedings.

Given the likelihood that the EC will not implement the DSB recommendations concerning the hormone ban by May 13, the USTR is taking steps, under the authority of Section 306 of the Trade Act, to prepare for the exercise of the United States's right to suspend concessions under Article 22 of the DSU. These steps include: (1) this request for comments on the concessions that the United States intends to suspend if the EC does not implement the DSB recommendations; and (2) the subsequent U.S. request to the DSB for suspension of concessions.

The U.S. request to the DSB will be submitted some time after May 13, when the EC's reasonable period of time for implementation expires, but before June 12, the latest date by which either the DSB must grant the requested authorization or the EC must request arbitration to review the level of the requested suspension. The U.S. request to the DSB will include the concessions which the U.S. intends to suspend (e.g., a list of products of the EC on which the United States intends to suspend tariff concessions). The United States would begin suspending these concessions in accordance with the time frames

provided in Article 22 of the DSU and Section 306 of the Trade Act.

Request for Comments

The USTR requests comments on the types of concessions that may be appropriate for suspension pursuant to Article 22 of the DSU if the EC does not implement the DSB recommendations concerning the hormone ban within the prescribed reasonable period of time. The USTR proposes that the imposition of 100 percent *ad valorem* duties on selected products of the EC is an appropriate action and that the products to be affected by the duty increase will be drawn from the list of products set forth in the Annex to this notice. The imposition of increased duties may be applied to imported articles that are both: (1) classified in the headings and the subheadings of the Harmonized Tariff Schedule of the United States (HTS) listed in the Annex to this notice; and (2) the product of a member State of the European Union. In the instances where a 4-digit HTS heading appears in the left column of this list, products classified in any of the 8-digit subheadings appearing in the HTS indented under those 4-digit headings may be subject to increased duties.

Public Comment on Proposed Suspension of Concessions; Hearing Participation

Section 306(c) of the Trade Act provides that the USTR shall allow an opportunity for the presentation of views by interested persons prior to the issuance of a determination pursuant to section 306(b). The USTR invites interested persons to: (1) provide written comments on the proposed suspension of concessions; and (2) to present written and oral testimony and rebuttal briefs in the context of a public hearing. Written comments and written and oral testimony may address: the appropriateness of imposing increased duties on the products listed in the Annex to this notice; the levels at which U.S. customs duties should be set for particular items; the degree to which increased duties might have an adverse effect upon U.S. consumers of the products listed in the Annex; and any other matter relating to the EC hormone ban and the proposed increase in duties.

Written comments: Interested persons wishing to submit written comments must do so by noon on Friday, April 23, 1999. Persons submitting written comments may, but do not need to, present written and oral testimony as well.

Requests to Testify and Written Testimony: Interested persons wishing to present testimony at the hearing must

submit a written request to do so by noon on Wednesday, April 14, 1999, together with twenty copies of their complete written testimony. Requests to testify must conform to the requirements of 15 CFR § 2006.9 and include the following information: (1) name, address, telephone number, fax number, firm or affiliation of the applicant, and interest of the applicant; and (2) a brief summary of the comments to be presented. After considering the request to present oral testimony, the Staff Assistant to the Section 301 Committee will notify the applicant of the time of his or her testimony.

Public Hearing: The public hearing will be held beginning at 8:00 a.m. on Monday, April 19, 1999 in the Main Hearing Room at the U. S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436. Testimony at the public hearing should be limited to no more than five minutes.

Rebuttal Briefs: To assure interested persons an opportunity to contest the information provided by other persons, the USTR will entertain rebuttal briefs filed by any party by 5:00 p.m. on Monday, April 26, 1999. In accordance with 15 CFR § 2006.8(c), rebuttal briefs should be strictly limited to demonstrating errors of fact or analysis not pointed out in written or oral testimony and should be as concise as possible.

Requirements for Submissions: Written comments on the proposed determination, written testimony, and rebuttal briefs must be filed in accordance with the requirements set forth in 15 CFR § 2006.8(b). Submission must include on the first page a clear reference in bold and/or underlining to the HTS number(s) and product(s) which are the subject of the submission. Submissions must state clearly the position taken and describe with particularity the supporting rationale, be in English, and be provided in twenty copies to: Chairman, Section 301 Committee, Attn: EC—Hormone Ban, Implementation of WTO Recommendations, Room 100.

Written comments, written testimony, and rebuttal briefs will be placed in a file (Docket 301-62a) open to public inspection pursuant to 15 CFR § 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR § 2006.15. Persons wishing to submit business confidential information must certify in writing that such information is confidential in accordance with 15 CFR § 2006.15(b), and such information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color

ink at the top of each page on each of twenty copies and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary will be placed in the docket that is open to public inspection.

An appointment to review Docket No. 301-62a may be made by calling Brenda Webb at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101 of the Office

of the United States Trade Representative.

Joanna K. McIntosh,
Chairman, Section 301 Committee.

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Annex

[The bracketed language in this Annex has been included only to clarify the scope of the numbered headings or subheadings of the Harmonized Tariff Schedule of the United States (HTS) which are being considered, and such language is not itself intended to describe articles which are under consideration. In the instances where a 4-digit HTS heading number appears in the left column of this annex, articles classified in any of the 8-digit subheadings indented thereunder in the HTS may be subject to increased duties.]

HTS Heading/ Subheading	Article Description
0201	Meat of bovine animals, fresh or chilled
0202	Meat of bovine animals, frozen
0203	Meat of swine, fresh, chilled, or frozen
0206	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen
0207	Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen
	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal:
	Meat of swine:
0210.11.00	Hams, shoulders and cuts thereof, with bone in
0210.12.00	Bellies (streaky) and cuts thereof
0210.20.00	Meat of bovine animals
	Other, including edible flours and meals of meat or meat offal:
0210.90.20	Meat of poultry of heading 0105
0210.90.40	Other
	Cheese and curd:
	Blue-veined cheese:
0406.40.20	Roquefort:
0406.40.40	In original loaves
	Other
0504.00.00	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked
	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:
0603.90.00	[Fresh]
	Other
	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, mosses and lichens, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:
	[Mosses and lichens]
0604.91.00	Other:
	Fresh
0604.99.30	Other:
	Dried or bleached
0702	Tomatoes, fresh or chilled
	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled:
	Onions and shallots:
	[Onion sets]
	Other:
0703.10.40	[Pearl onions not over 16 mm in diameter]
	Other
	Other vegetables, fresh or chilled:
0709.52.00	Mushrooms and truffles:
	Truffle

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HTS Heading/ Subheading	Article Description
0712.90.10	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared: Other vegetables; mixtures of vegetables: Carrots
0712.90.74	Tomatoes:
0712.90.78	In powder
	Other
	Other nuts, fresh or dried, whether or not shelled or peeled:
0802.40.00	Chestnuts (<u>Castanea</u> spp.)
	Pepper of the genus <u>Piper</u> ; dried or crushed or ground fruits of the genus <u>Capsicum</u> (peppers) or of the genus <u>Pimenta</u> (e.g., allspice):
	Fruits of the genus <u>Capsicum</u> or of the genus <u>Pimenta</u> (including allspice), dried or crushed or ground:
	Of the genus <u>Capsicum</u> (including cayenne pepper, paprika and red pepper):
0904.20.20	Paprika
	Oats
	Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading 1006; germ of cereals, whole, rolled, flaked or ground:
	Rolled or flaked grains:
1104.12.00	Of oats
	Other worked grains (for example, hulled, pearled, sliced or kibbled):
1104.22.00	Of oats
	Wool grease and fatty substances derived therefrom (including lanolin):
	[Wool grease, crude]
1505.90.00	Other
1601	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products
	Other prepared or preserved meat, meat offal or blood:
1602.10.00	Homogenized preparations
	Of liver of any animal:
1602.20.20	Of goose
1602.20.40	Other
	Of poultry of heading 0105:
1602.31.00	Of turkeys
1602.32.00	Of chickens
1602.39.00	Other
	Of swine:
	Hams and cuts thereof:
1602.41.10	Containing cereals or vegetables
	Other:
1602.41.20	Boned and cooked and packed in airtight containers
1602.41.90	Other
	Shoulders and cuts thereof:
1602.42.20	Boned and cooked and packed in airtight containers
1602.42.40	Other
	Other, including mixtures:
1602.49.10	Offal
	Other:
	Not containing cereals or vegetables:
1602.49.20	Boned and cooked and packed in airtight containers
1602.49.40	Other
	Other:
1602.49.60	Mixtures of pork and beef
1602.49.90	Other

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HTS Heading/ Subheading	Article Description
1602.50.05	Other prepared or preserved meat, meat offal or blood: Of bovine animals: Offal
	Other:
	Not containing cereals or vegetables:
1602.50.09	Cured or pickled
	Other:
	In airtight containers:
1602.50.10	Corned beef
1602.50.20	Other
1602.50.60	Other
1602.50.90	Other
	Sugar confectionery (including white chocolate), not containing cocoa:
1704.10.00	Chewing gum, whether or not sugar-coated
	Other:
	Confections or sweetmeats ready for consumption:
	Other:
1704.90.25	Cough drops
	Chocolate and other food preparations containing cocoa:
	[Cocoa powder, containing added sugar or other sweetening matter; other preparations in blocks, slabs or bars, weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg]
	Other, in blocks, slabs or bars:
1806.31.00	Filled
	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty capsules of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:
1905.40.00	Rusks, toasted bread and similar toasted products
	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid:
2002.10.00	Tomatoes, whole or in pieces
	Other:
2002.90.40	In powder
2002.90.80	Other
	Jams, fruit jellies, marmalades, fruit or nut puree and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter:
	[Homogenized preparations]
	Other:
	Other:
	Jams:
2007.99.05	Lingonberry and raspberry
	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:
	Citrus fruit:
	[Peel; pulp]
	Other:
	Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids:
	Mandarins:
	Satsumas, in airtight containers:
2008.30.42	For an aggregate quantity entered in any calendar year not to exceed 40,000 metric tons
2008.30.46	Other
2008.40.00	Pears
2008.70.00	Peaches

Annex (con.)

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HTS Heading/ Subheading	Article Description
2009.60.00	Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter: Grape juice (including grape must) Juice of any other single fruit or vegetable:
2009.80.60	Fruit juice: [Pear juice; prune juice] Other
2009.90.40	Mixtures of juices: [Vegetable] Other
2101.30.00	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof: Roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof
2103.30.40	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard: Mustard flour and meal and prepared mustard: [Mustard flour and meal] Prepared mustard
2104.10.00	Soups and broths and preparations therefor; homogenized composite food preparations: Soups and broths and preparations therefor
2201.10.00	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavored; ice and snow: Mineral waters and aerated waters
2309.90.10	Preparations of a kind used in animal feeding: [Dog or cat food, put up for retail sale] Other: Mixed feeds or mixed feed ingredients
3506.10.50	Prepared glues and other prepared adhesives, not elsewhere specified or included; products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg: Products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives, not exceeding a net weight of 1 kg: [Animal glue, including casein glue, but not including fish glue] Other
5504.10.00	Artificial staple fibers, not carded, combed or otherwise processed for spinning: Of viscose rayon
5510.11.00	Yarn (other than sewing thread) of artificial staple fibers, not put up for retail sale: Containing 85 percent or more by weight of artificial staple fibers: Single yarn
8510.20.00	Shavers and hair clippers, with self-contained electric motor; parts thereof: Hair clippers
8711.20.00	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars: With reciprocating internal combustion piston engine of a cylinder capacity exceeding 50 cc but not exceeding 250 cc
8711.30.00	With reciprocating internal combustion piston engine of a cylinder capacity exceeding 250 cc but not exceeding 500 cc