

[Billing Code 3190-W9-P]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR-2009-0022]

Implementation of the U.S.-EC *Beef Hormones* Memorandum of Understanding

AGENCY: Office of the United States Trade Representative.

ACTION: Notice, delay of action, and request for comments.

SUMMARY: On May 13, 2009, the United States and the European Communities (“EC”) announced the signing of a Memorandum of Understanding (MOU) in the *Beef Hormones* dispute. Under the first phase of the agreement, the EC is obligated to open a new beef tariff-rate quota (TRQ) in the amount of 20,000 metric tons at zero rate of duty. The United States in turn is obligated not to increase additional duties above those in effect as of March 23, 2009. The EC opened the new beef TRQ on August 1, 2009. This notice undertakes the process necessary to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU.

EFFECTIVE DATE: A modified list of products subject to additional duties in connection with

the *Beef Hormones* dispute (announced on January 15, 2009) had been scheduled to be effective with respect to products that are entered, or withdrawn from warehouse, for consumption on or after August 15, 2009. In order to meet U.S. obligations under the MOU, the United States Trade Representative (“Trade Representative”) has now changed this effective date to September 19, 2009. Moreover, as explained below, the Trade Representative will take additional steps before that time in order to continue to implement U.S. obligations under the MOU.

FOR FURTHER INFORMATION CONTACT: Roger Wentzel, Director, Agricultural Affairs, (202) 395-6127 or David Weiner, Director for the European Union, (202) 395-4620 for questions concerning the *EC-Beef Hormones* dispute; or William Busis, Associate General Counsel and Chair of the Section 301 Committee, (202) 395-3150, for questions concerning procedures under Section 301.

SUPPLEMENTARY INFORMATION

A. Background

On January 15, 2009, the Trade Representative announced modifications (“January 15 modifications”) to the action taken in July 1999 in connection with the World Trade Organization (“WTO”) authorization of the United States in the *EC-Beef Hormones* dispute to suspend concessions and related obligations with respect to the European Communities (“EC”). See 74 FR 4265 (Jan. 23, 2009). The January 15 modifications initially had an effective date of March 23,

2009. The Trade Representative subsequently delayed the effective date of the additional duties imposed under the January 15 modifications to April 23, 2009; to May 9, 2009; and then to August 15, 2009. The effective date of the removal of duties under the January 15 modifications remained March 23, 2009. See 74 FR 11613 (March 18, 2009); 74 FR 12402 (March 24, 2009); 74 FR 19263 (April 28, 2009). As a result of removal of duties on March 23, 2009, a reduced list of products subject to additional duties (at a rate of 100 percent *ad valorem*) has been in place since that time. This reduced list is set out in the Annex to this notice. Under the first phase of the MOU, the United States maintains the right to impose these additional duties, and is obligated not to impose additional duties on any other products in connection with the *EC-Beef Hormones* WTO dispute.

The first phase of the MOU concludes on August 3, 2012. Under a possible second phase of the MOU, the EC would expand the beef TRQ to 45,000 metric tons, and the United States would suspend all of the additional duties imposed in connection with the *EC-Beef Hormones* WTO dispute.

For additional background concerning the *EC-Beef Hormones* WTO dispute; the January 15 modifications; and the prior delays in the effective date of the modifications, see 73 FR 66066 (Nov. 6, 2008); 74 FR 4265 (Jan. 23, 2009), 74 FR 11613 (March 18, 2009), 74 FR 12402 (March 24, 2009), 74 FR 19263 (April 28, 2009), and 74 FR 22626 (May 13, 2009). Further information on the May 13, 2009 U.S.-EC MOU may be found on USTR's website, www.ustr.gov.

B. Delay of Action

Pursuant to Section 305 of the Trade Act of 1974, the Trade Representative has determined that a further delay in implementation of the January 15 modifications would be desirable to obtain a satisfactory solution with respect to the EC's ban on U.S. beef. Accordingly, the Trade Representative has decided to delay the effective date of the additional duties imposed under the January 15 modifications from August 15, 2009 to September 19, 2009. The actions to be delayed are: (i) the imposition of increased duties on additional products, (ii) the application to products of additional EC member States of the increased duties on currently covered products, and (iii) the increase in the level of duties on one of the products that is being maintained on the product list. These are the same actions that were previously delayed until August 15, 2009.

The increased duties under the January 15 modifications are set out in Annex II of the notice published at 74 FR 12402 (March 24, 2009), as modified by the notice published at 74 FR 19263 (April 28, 2009). In order to delay the effective date of the increased duties until September 19, 2009, the Trade Representative has decided that the modifications to the Harmonized Tariff Schedule of the United States that are contained in Parts A and B of Annex II shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after September 19, 2009. As explained below, however, further steps are contemplated before that time. In addition, any merchandise covered under Part B of Annex II of the notice published at 74 FR 12402 that is admitted to a U.S. foreign-trade zone on or after September 19, 2009 must be admitted in "privileged foreign status" as defined in 19 C.F.R. 146.41. Questions concerning customs matters may be directed to Renee Chovanec, International Coordination, Office of International Trade, U.S. Customs and Border Protection, (202) 863-6384.

C. Opportunity for Public Comments

Prior to September 19, 2009, the Trade Representative intends to take further steps under the Trade Act to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU. The Section 301 Committee seeks comments on these matters, including with regard to the imposition of 100 percent duties on the products currently subject to such duties throughout the remainder of the first phase of the MOU. (The list of products currently subject to 100 percent duties in connection with *EC-Beef Hormones* WTO dispute is set out in the Annex to this notice.) As noted above, the United States maintains the right to impose these additional duties during the first phase of the MOU, and under a possible second phase, the EC would expand the beef TRQ to 45,000 metric tons and the United States in turn would suspend all of the additional duties imposed in connection with the *EC-Beef Hormones* WTO dispute.

Any comments should be submitted by no later than September 12, 2009. To submit comments via www.regulations.gov, enter docket number USTR-2009-0022 on the home page and click “go”.

The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Send a Comment or Submission.” (For further information on using the www.regulations.gov website, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page.)

The www.regulations.gov site provides the option of providing comments by filling in a “General Comments” field, or by attaching a document. Given the detailed nature of the comments sought by the Section 301 Committee, all comments should be provided in an attached document.

Submissions must state clearly the position taken and describe with specificity the supporting rationale and must be written in English. After attaching the document, it is sufficient to type “See attached” in the “General Comments” field.

Interested persons may request a public hearing on these matters. Any request for a public hearing should be made by no later than August 20, 2009. In the event a hearing is to be held, USTR will issue a notice specifying the date of the hearing and the procedures for submitting written testimony.

Comments will be placed in the docket and 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 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments may be viewed on the www.regulations.gov website by entering docket number USTR-2009-0022 in the search field on the home page.

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" at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary will

be placed in the docket and open to public inspection. Comments containing business confidential information should not be submitted via the www.regulations.gov website. Instead, persons wishing to submit comments containing business confidential information should contact Sandy McKinzy at (202) 395-9483.

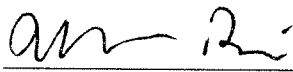
Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter –

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page; and
- (3) Must provide a non-confidential summary of the information or advice.

The non-confidential summary will be placed in the docket and open to public inspection.

Comments submitted in confidence should not be submitted via the www.regulations.gov website.

Instead, persons wishing to submit such comments should contact Sandy McKinzy at (202) 395-9483.



William Busis

Chair, Section 301 Committee

ANNEX

EC-Beef Hormones - List of Products Currently Subject to Additional Duties

The products listed below are currently subject to 100 percent *ad valorem* duties in accordance with the WTO DSB authorization in the *EC-Beef Hormones* dispute. In all cases, the tariff nomenclatures in the HTS for the headings and subheadings listed below are definitive; the product descriptions in this list are for **information purposes only**.

Articles the product of Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, or Sweden:	
Meat of bovine animals, fresh or chilled (provided for in heading 0201):	
Articles of subheading 0201.10.05, 0201.10.10, 0201.20.02, 0201.20.04, 0201.20.06, 0201.20.10, 0201.20.30, 0201.20.50, 0201.30.02, 0201.30.04, 0201.30.06, 0201.30.10, 0201.30.30 or 0201.30.50	100%
Articles of subheading 0201.10.50, 0201.20.80 or 0201.30.80	100%
Meat of bovine animals, frozen (provided for in heading 0202):	
Articles of subheading 0202.10.05, 0202.10.10, 0202.20.02, 0202.20.04, 0202.20.06, 0202.20.10, 0202.20.30, 0202.20.50, 0202.30.02, 0202.30.04, 0202.30.06, 0202.30.10, 0202.30.30 or 0202.30.50	100%
Articles of subheading 0202.10.50, 0202.20.80 or 0202.30.80	100%
Meat of swine, fresh or chilled (provided for in subheading 0203.11, 0203.12 or 0203.19)	100%
Carcasses and half-carcasses of swine, frozen (provided for in subheading 0203.21) .	100%
Hams, shoulders and cuts thereof, with bone in, of swine, frozen (provided for in subheading 0203.22)	100%
Edible offal of bovine animals, fresh or chilled (provided for in subheading 0206.10)	100%
Edible offal of bovine animals, frozen (provided for in subheading 0206.21, 0206.22 or 0206.29)	100%
Roquefort cheese (provided for in subheading 0406.40.20 or 0406.40.40)	100%
Truffles, fresh or chilled (provided for in subheading 0709.59.10)	100%
Other prepared or preserved meat, meat offal or blood, of liver of any animal (provided for in subheading 1602.20)	100%
Articles the product of France:	
Hams, shoulders and cuts of meat of swine, with bone in, salted, in brine, dried or smoked (provided for in subheading 0210.11)	100%
Wool grease (other than crude wool grease) and fatty substances derived from wool grease (including lanolin) (provided for in subheading 1505.00.90)	100%
Chocolate and other food preparations containing cocoa, in blocks, slabs or bars, filled, weighing 2 kg or less each (provided for in subheading 1806.31)	100%

Lingonberry and raspberry jams (provided for in subheading 2007.99.05)	100%
Articles the product of Austria or France:	
Juice of any other single fruit, not elsewhere specified or included, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.80.60)	100%