

RESTRICTION ON THE EXPORT OF HORSES TO INDIA

Submission by the European Communities at the meeting
of 10-11 March 1999

I. BACKGROUND

1. Though horse trade between the European Communities and India regularly occurred in the past years, EC member States have recently experienced problems in the export of horses to India. The authorities directly concerned have repeatedly enquired of India about the health guarantees necessary to export thoroughbred, race, saddle and draught horses for private individuals. France, in particular, has unfruitful bilateral contacts throughout four years. However, to date no official reply has been given by the Indian authorities and only a little partial information has been obtained only through business operators. These entail either a ban or unjustifiable restrictions based on the age of the animals.

2. As regards more specifically France and United Kingdom, the information more recently gathered would suggest that the import restrictions are based on the presence of cases of contagious equine metritis (CEM), which has never before been an obstacle to trade.

3. Chapter 3.4.1.2 of the OIE Code requires importing Members to take into account a health certificate attesting that animals:

- (a) showed no clinical sign of CEM on the day of shipment;
- (b) had no contact with CEM:
 - (i) directly, through coitus with an infected animal; or
 - (ii) indirectly, by passing through an infected establishment;
- (c) were subject to the laboratory test for CEM with negative results during the 30 days prior to shipment.

In addition, the OIE consider horses that do not fulfil the above conditions as eligible for export if recognised as not being contagious through laboratory tests for CEM.

4. Apparently India goes beyond what is indicated by the OIE, without however specifying what are the necessary requirements to be met.

II. SPECIFIC REQUEST

5. In the light of the above and in accordance with Article 5.8 of the SPS Agreement, the European Communities would like to pose to the Indian authorities the following questions:

- (a) Which are the measures laying down import conditions to be met in order to export horses to India?
- (b) Have these measures or any relevant modification been notified to the WTO Secretariat?
- (c) The Indian authorities have apparently chosen not to base their import conditions on the relevant OIE recommendations. In consideration of Articles 3.1 and 3.3 of the SPS Agreement, could India indicate what is the scientific justification behind the import prohibition?
- (d) Could India provide the European Communities with comprehensive information about the risk assessment carried out in accordance with the provision of Article 5.1 to justify the relevant measures, especially as regards the import restriction due to the possible presence of CEM?
- (e) Could India indicate to which extent the provision of Article 2.3 of the SPS Agreement, requiring Members not to arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail including between their own territory and that of other Members, are applied?
- (f) The European Communities would like to receive detailed information on the control programs applied throughout India on horse diseases and especially on CEM.

III. CONCLUSION

6. The extensive discussion held in the SPS Committee on the transparency and notification provisions, as indicated also in Document G/SPS/W/92/Rev.2 on the Review of the SPS Agreement, where India itself has been an active participant, bring us to the final conclusion that transparency provisions are one of the cornerstones of the SPS Agreement, to which the European Communities attach great importance. The European Communities consider communication and exchange of information as fundamental elements for the correct and smooth implementation of the transparency obligations Members have under the SPS Agreement. Hence, the European Communities express its concerns on the current state of play and would encourage India to respect its obligations under the SPS Agreement.

7. The European Communities would appreciate receiving answers to the above questions and it invites India to resume constructive and fruitful talks with the European Communities in order to clarify the relevant import requirements.
