

**RESTRICTION ON THE EXPORT OF BOVINE SEMEN TO INDIA**

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

**I. BACKGROUND**

1. A number of EC member States have asked the Indian Government for information concerning health import conditions necessary to export bovine semen to India. Notwithstanding several bilateral contacts between the relevant governmental authorities, where the parties agreed to work on the basis of specific pertinent sanitary information towards the establishment of transparent and acceptable import requirements, negotiations are currently at a stalemate.

2. The Indian Government had also mentioned the possibility of holding a seminar on the specific issue in order to better understand the sanitary implications linked to the import of genetic material and to subsequently establish import conditions based on the latest scientific findings. The date of such a seminar has been postponed to a later stage. In the meantime a *de facto* import prohibition is applied.

3. Bovine Spongiform Encephalopathy (BSE) is apparently the reason behind the import restriction imposed by India. The OIE, in the *International Code* Chapter 3.2.13.3 concerning BSE, indicates that no restrictions should be applied whatsoever by an importing country on a number of products of bovine origin including bovine semen, notwithstanding the health status of the exporting country. India chooses not to refer to this OIE guideline as a basis for trade in semen.

4. The SPS Agreement requires Members to base their SPS measures on international standards, guidelines and recommendations, where these exist. Article 3 of the SPS Agreement allows Members to introduce or maintain measures which result in a higher level of protection than would be achieved by measures based on the relevant international norms, if there is a scientific justification or as a consequence of the Members' chosen level of protection in accordance with the relevant provision of the SPS Agreement itself (Article 5, paragraphs 1 through 8).

**II. SPECIFIC QUESTIONS**

5. Therefore, 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<sup>1</sup> laying down specific import conditions for bovine semen?
- (b) Have these or any relevant modifications been notified to the WTO Secretariat?

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<sup>1</sup>Laws, decrees or ordinances which are generally applied (SPS Agreement, Annex B).

- (c) The Indian authorities have chosen not to base their import conditions on the relevant OIE recommendation. 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?
- (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, is applied?

### **III. CONCLUSIONS**

6. The European Communities appreciate the difficulties the Indian Government might have in gathering necessary scientific data concerning the import of certain agricultural commodities. It also understands the problems India might encounter in evaluating the relevant data submitted by the other Members directly concerned. However, the European Communities express its deep concerns on the current Indian import requirements for bovine semen, which do not appear to be based either on available scientific findings or on the relevant international standards. Therefore, upon receipt and evaluation of the answers to the above questions, the European Communities would favour a further exchange of views on the issue in order to work towards a positive solution.

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