

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

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

**I. BACKGROUND**

1. The European Communities have persistently enquired of Argentina about the health requirements necessary to export bovine semen. Notwithstanding the comprehensive information concerning the health status of the countries willing to export the relevant product, the Argentinian authorities have up to now denied access to their national market, without clearly indicating which health conditions have to be complied with.
2. Argentina has notified a new measure concerning the import requirements to be fulfilled in order to export bovine semen. Notwithstanding the request of both the EC SPS Enquiry Point and the German national administration, the text of the relevant measure has not been provided. This prevents its correct and thorough evaluation and does not provide Members with the correct framework to comment upon the measure.
3. The European Communities understand that the reason behind the import restrictions imposed is Bovine Spongiform Encephalopathy (BSE). Germany, in particular, had an extensive *exchange of correspondence* (letters/views) in order to indicate which requirements EC Members are requested to comply with by the relevant EC legislation, the health status of the country and the controls applied nationwide, as regards BSE.
4. 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.
5. 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**

6. Therefore, in light of the above and in accordance with Article 5.8 of the SPS Agreement, the European Communities would like to pose to Argentina the following questions:

- (a) Which are the national measures<sup>1</sup> laying down the specific import conditions for bovine semen?
- (b) Argentina has apparently chosen not to base its import conditions on the relevant OIE recommendations. In consideration of Articles 3.1 and 3.3 of the SPS Agreement, could Argentina indicate what is the scientific justification behind the import prohibition?
- (c) Could Argentina 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?
- (d) Could Argentina 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

7. The European Communities appreciate the difficulties Argentina might encounter in evaluating the relevant data submitted by the other Members directly concerned by the relevant sanitary measures. However, the European Communities express its deep concerns on the current Argentine import requirements for bovine semen, which, to the best of our knowledge, do not appear to be based either on available scientific findings or on the relevant international standards. In addition, it invites Argentina to respect its transparency obligations under the SPS Agreement.

8. The European Communities would appreciate receiving answers to the above questions in due course and would favour a further exchange of views in order to clarify EC member State health status and to work towards a positive solution of this specific issue.

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