

**RESTRICTIONS ON THE EXPORT OF BOVINE SEMEN,  
MILK AND MILK PRODUCTS  
(NOTIFICATIONS: G/SPS/N/ARG/38 AND G/SPS/ARG/47)**

Statement by the European Communities at the meeting of 7-8 July 1999

**I. INTRODUCTION**

1. The Argentinean authorities notified as G/SPS/N/ARG/38 a draft measure concerning the requirements to be met in order to export bovine products. The resolution refers to the necessity to establish a regulation for animals susceptible to Bovine Spongiform Encephalopathy (BSE) and products thereof and it proposes to include bovine semen among low risk products, together with milk and milk products, gelatine, hides and tallow.

2. Argentina recently notified its import requirements for frozen bovine semen only, G/SPS/N/ARG/47, where the precondition for export as regards BSE is country freedom or low BSE risk. Though it is not clearly indicated, this measure appears to repeal the previous import conditions. However, it does not bring the relevant provisions into line with the existing international recommendations and with the most recent scientific findings on vertical transmission of BSE.

3. The European Communities questioned the Argentine import provisions under the relevant agenda item of the SPS Committee meeting of 10-11 March 1999<sup>1</sup> and later commented on the specific notification. Argentina has not answered in writing the EC comments although it was specifically requested to do so.

4. The European Communities indicated that the EC Scientific Steering Committee, in delivering its opinion on the possible vertical transmission of BSE, at its meeting of 18-19 March 1999, concluded that it is unlikely that semen constitutes a risk-factor for BSE transmission.

5. Furthermore, Argentina admitted, in its Resolution N° 30 of 18 September 1998 (G/SPS/ARG/38), that the existing scientific data show that BSE cannot be transmitted through semen. In addition, it notes that the OIE considers semen as a product that can be traded without restrictions.

6. The OIE *International Animal Health Code*, Chapter 3.2.13.3 on BSE, indicates that no restrictions should be applied whatsoever by an importing country on a number of products of bovine origin including bovine semen and milk derived from healthy animals, regardless of the status of the exporting country.

7. 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 measure 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

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<sup>1</sup> G/SPS/GEN/114.

consequence of the Member's chosen level of protection in accordance with the relevant provisions of the SPS Agreement itself (Article 5, paragraph 1 through 8).

## II. SPECIFIC QUESTIONS

8. Argentina maintains that the measure is based on the OIE Code as well as on scientific advice. However, OIE does not consider milk or bovine semen as products susceptible of transmitting BSE if derived from healthy animals. The European Communities therefore questions the inclusion of semen and milk in the category of products subject to severe restrictions. We consider the categorization of countries proposed by Argentina to be unclear, and it does not reflect the categorization proposed by the OIE Code.

9. In the light of the above, and in accordance with Article 5.8 of the SPS Agreement, the European Communities would ask the following questions to Argentina:

- (a) Could Argentina explain the apparent discrepancy between the OIE Code recommendations that allegedly served as a basis for the relevant measures and the import requirements themselves?
- (b) Could Argentina explain why the provisions of the OIE Code have been found insufficient to achieve Argentina's appropriate level of protection?
- (c) In consideration of Articles 3.1 and 3.3 of the SPS Agreement, could Argentina explain to the European Communities the scientific justification behind the relevant import requirements and provide the European Communities with comprehensive information on the risk assessment that has been carried out?
- (d) Could Argentina provide the European Communities with the criteria required to determine the BSE status of a country, a region, or a region within a country?
- (e) Could Argentina provide a list of countries currently recognized as free of BSE, or of low risk from BSE?
- (f) Could Argentina indicate to which extent it applies the provisions 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 Member?

## III. CONCLUSIONS

10. The European Communities expresses its concerns on the current Argentine import requirements for bovine semen, milk and milk products, which do not appear to reflect the most recent scientific findings or the relevant international standards and pose serious unjustified restrictions to trade.

11. The European Communities would appreciate receiving written answers to the above questions, and would welcome a further exchange of views in order to clarify EC member States' health status and to work towards a mutually favourable resolution.

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