

MEASURES AFFECTING THE TRADE OF BOVINE SEMEN

Statement by the European Communities at the Meeting of 21-22 June 2000

1. In 1996 and in the following years, in the wake of the BSE crises, several WTO Members and other countries introduced restrictive measures on bovine products including milk, milk products and bovine semen originating within the European Communities. Some measures have since been lifted, and to the best of our knowledge no WTO Members maintain bans for milk and milk products due to BSE. The European Communities would like to express its appreciation to those Members who have adjusted their measures in the light of the information made available by member States and by the Commission. However, a number of third countries, including WTO Members, continue to apply import restrictions on bovine semen that go beyond international standards and are not scientifically based. While most of the legislation originally enforced responded to the legitimate need to protect human and animal health, the restrictions still applied for bovine semen do not appear to be in line with existing international recommendations and with the most recent scientific findings on vertical transmission of BSE.
2. The restrictions on bovine semen due to BSE are not scientifically based and notwithstanding persistent European Communities requests to a number of WTO Members, no scientific rationale has been provided whatsoever and no acceptable justification has been given.
3. The SPS Agreement requires Members to base their SPS measures on international standards, guidelines and recommendations, where these exist. Article 3 of the 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 consequence of the Member's chosen level of protection in accordance with the relevant provisions of the Agreement itself (Article 5, paragraphs 1 through 8).
4. The OIE *International 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 derived from healthy animals, regardless of the status of the exporting country. This has never been questioned and was reaffirmed during the May 2000 meeting of the OIE General Assembly.
5. As regards the EC legislation, pursuant to Commission Directive 93/60/EC, as amended, which takes into account the relevant international standards, no specific BSE health conditions are requested for intra-Community trade and/or import of bovine semen notwithstanding the health status of the country of origin.
6. Several WTO Members, such as Argentina, Chile, Brazil, India, Korea and Paraguay still maintain restrictions.¹ Argentina though admits that existing scientific data show that BSE cannot be

¹ List not exhaustive

transmitted through semen, and noted that the OIE considers semen as a product that can be traded without restrictions.

7. In consideration of the relevant international recommendations, of the available scientific data, of the steps already undertaken by the European Communities and of the information made available so far, it is increasingly difficult to accept restriction to the trade of bovine semen.

8. The European Communities shares the view of other WTO Members as regards the need to protect animal and human health, and that they may apply measures underpinned by science as legitimate. However, we strongly believe in the set of rules enshrined in the GATT 94 and SPS Agreement, and consider that several Members do not abide by them with regard to trade in bovine semen, thus jeopardising the role and function of the SPS Committee itself. The European Communities is deeply concerned about the legitimacy of the measures in place, and considers that they represent a real challenge to the credibility and accountability of the whole trade system as currently construed.

9. The European Communities expresses once again its concern on the current BSE import requirements as implemented by several WTO Members for bovine semen which do not appear to reflect the most recent scientific findings or the relevant international standards and pose serious unjustified restrictions to trade. In the light of the above and having noticed the lack of co-operation of the concerned WTO Members, the European Communities reserves its right to take any necessary action with regards to unjustified trade barriers where other attempts under the auspices of the SPS Committee fail.
