

EXPORT OF FISH-MEAL TO THE EUROPEAN UNION

Communication from Chile

Introduction

1. In response to the epidemiological situation of Bovine Spongiform Encephalopathy (BSE) in countries of the European Union which caused a domestic crisis and considerable alarm among European consumers, the Commission of the European Union issued a series of decisions and regulations with a view to ensuring the prevention, control and eradication of transmissible spongiform encephalopathies.

2. Chile recognizes the need, in view of the implications for animal health and the security of consumers, to lay down strict regulations to deal with the problem, based on scientific criteria and risk analyses. However, it considers the application of the Decisions indicated below to be discriminatory and without scientific foundation, since they directly affect the use and marketing of fish-meal, a vital productive sector of Chile's economy, without any scientific evidence that this product is a source of infection for transmissible spongiform encephalopathies.

Decisions of the EU which affect fish-meal exports

3. Council Decision 2000/766/EC of 4 December 2000 concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein, and Commission Decision 2001/9/EC of 29 December 2000 concerning control measures required for the implementation of Council Decision 2000/766/EC.

4. These Decisions, of a temporary nature, were extended as transitional measures, since Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, discussed on 19 June 2001 in the Council of Ministers of Agriculture of the European Union, was returned to the Commission without the necessary majority for approval.

5. Article 1, paragraph 2 of these transitional measures stipulates that Article 7(2), (3) and (4) of Decision No. 999/2001 shall not apply to a member State until the coming into force of the decision determining the BSE status of that member State, and until the Community provisions on animal feeding relevant to transmissible spongiform encephalopathies are effectively enforced there.

6. During this transitional period, Annex XI, Section C concerning prohibitions on animal feeding shall apply, thus extending Decisions 2000/766/EC and 2001/9/EC which prohibit the feeding of ruminants with animal meal, including fish-meal, and require animal feed processing plants to have more than one production line.

Arguments put forward in the light of the duties and obligations laid down in the WTO Agreement on Sanitary and Phytosanitary Measures (SPS)

- The prohibition of the use of fish-meal in the feeding of ruminants is without scientific foundation and infringes Article 2.2 of the SPS Agreement, since fish-meal is unrelated to the risk of infection of animals with the prion disease Bovine Spongiform Encephalopathy (BSE).
- The adequate level of protection established by the European Union does not call for a scientifically based risk analysis, and the risk mitigation measure applied bears no relation to the real cause of contamination and subsequent infection of the animals.
- The only causes revealed thus far by the investigations conducted are related to meat- and bone-meal. The procedure applied is inconsistent with Article 5 of the SPS Agreement.
- The measures applied make it impossible to feed animals with fish-meal, which is considered internationally to be an ideal base for the diet of farm animals owing to its nutritive and nutritional qualities.
- Fish-meal contains essential amino acids that are irreplaceable for growth, development and fertility; omega-3 fatty acids; energy and proteins at a concentration of between 64 per cent and 80 per cent; and vitamins A, B, B12, D and minerals.
- The fish-meal and fish oil industry in Chile meets the necessary requirements to guarantee sustainability of renewable resources and to guarantee their safety for human and animal health, with the additional advantage of minimal levels of dioxin in relation to the meals produced in the North Sea.
- The production plants process exclusively the catches of the fishing fleet and are far from sources of human, industrial and terrestrial animal pollution.

7. Since this is not the first time that fish-meal has been subjected to uncalled for restrictions, without scientific justification, by the European Union (the previous case involved sampling for Salmonella) and these restrictions have not been extended to vegetable flour, our country considers the measures currently in force to be discriminatory.

8. We propose that the European Union study the Balai Directive, which puts fish-meal in the same risk category as terrestrial animal meal, with a view to placing meal of marine origin in a separate group, thus avoiding the problems that repeatedly arise owing to a misclassification, that does not reflect the actual nature of the product or the effective risk of disease transmission.

9. In keeping with the above, Chile requests that proteins of marine origin such as fish-meal be expressly excluded from the new regulation extending Council Decision No. 2000/766/EC concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein as well as Commission Decision 2001/9/EC concerning control measures required for the implementation of Council Decision 2000/766/EC, and that the prohibition be maintained exclusively for meat- and bone-meal of terrestrial ruminants.

10. In addition to authorizing the use of fish-meal to feed ruminants, we request that paragraph 6 of Annex 1 of Decision 2001/9/EC be made more flexible in order to permit the effective use of fish-

meal in all animal feeding stuffs by authorizing the operation of establishments with only one processing line, provided that line is cleaned following each use for different feeding stuffs for terrestrial animals such as poultry, swine, etc.

11. Pursuant to Article 7 of the SPS Agreement, Chile and Peru held consultations with the Veterinary Commission of the European Union and different countries of the European Union concerning the inconsistency of the Decision at issue.

12. We would also like to observe that on 31 May 2001, Regulation (EC) No. 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies was published in the Official Journal of the European Communities. Article 7 of this Regulation ("Prohibitions concerning animal feeding") excludes fish-meal from the prohibition.

13. In spite of this, the Commission extended Council Decision 2000/766/EEC concerning certain protection measures with regard to transmissible spongiform encephalopathies and the feeding of animal protein for an indefinite period of time, thereby maintaining the restrictions on feeding ruminants with fish-meal and the requirement of more than one production line in factories producing animal feeding stuffs.

14. In view of the above considerations, the health authorities of the Government of Chile request that the Commission promptly apply Regulation (EC) No. 999/2001 which permits the use of fish-meal to feed ruminants, and when it is in force, that it make the requirements for feed-producing plants more flexible and authorize the use of fish-meal in establishments which process feeds for different kinds of animals and have only one production line, provided that line is thoroughly cleaned between the different production processes.
