

**POLAND – RESTRICTIONS ON THE IMPORT OF BOVINE SEMEN AND GELATIN**

Submission by Switzerland

A. BACKGROUND

1. Following the outbreak of Bovine Spongiform Encephalopathy (BSE) in Switzerland, sanitary measures have led to market access restrictions affecting the export of a number of Swiss products. Poland upholds a variety of measures and restrictions, including an import ban on bovine semen and gelatin from Switzerland.

2. Notwithstanding comprehensive information concerning the health status of Switzerland provided to the Polish authorities and several bilateral contacts between the relevant governmental authorities, the authorities of Poland have up to now denied market access, without clearly indicating which health conditions have to be complied with.

3. The Polish import restrictions on bovine semen and gelatin have been raised in the SPS Committee several times (G/SPS/GEN/204/Rev.2, paras. 86-96 and 135-137). Although the authorities of Poland have indicated that the measures in question would be replaced by measures reflecting the present state of scientific knowledge, there have not been any positive developments.

B. LEGAL CONSIDERATIONS BASED ON THE SPS AGREEMENT

4. BSE is the reason given for the import restrictions imposed by Poland. The OIE, in the *International Animal Health Code*, Article 2.3.13.7, indicates that an importing country should authorize without restriction the import or transit through their territory of various products of bovine origin including bovine semen and gelatin, regardless of the BSE status of the exporting country.

5. Article 3.1 of the SPS Agreement requires Members to base their sanitary measures on international standards, guidelines and recommendations, where they exist. According to Article 3.3, Members may only introduce or maintain SPS measures which result in a higher level of protection than would be achieved by measures based on the relevant international standards, if there is a scientific justification, or as a consequence of the level of protection a Member determines to be appropriate based on a risk assessment in accordance with the relevant provision of Article 5. Furthermore, Article 5.6 requires Members to ensure that such measures are not more trade-restrictive than necessary.

C. SPECIFIC QUESTIONS

6. In light of the above and in accordance with Article 5.8 of the SPS Agreement, Switzerland would like to obtain further information from Poland on the following:

- (a) Which are the national measures<sup>1</sup> laying down the specific import requirements for bovine semen and gelatin?
- (b) Have these or any relevant modifications been notified to the WTO Secretariat?
- (c) Have these import requirements been based on the relevant OIE standards? Should this not be the case, could Poland provide the scientific justification of the import prohibition in consideration of Articles 3.1 and 3.3 of the SPS Agreement?
- (d) Could Poland provide Switzerland with comprehensive information on the risk assessment carried out in accordance with the provision of Article 5 of the SPS Agreement to justify the relevant measures?
- (e) Could Poland indicate to which extent the provision of Article 2.3 of the SPS Agreement is applied, 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?

D. CONCLUSIONS

7. Switzerland recognizes the difficulties Poland might encounter in evaluating the relevant data submitted by other Members directly concerned by the relevant sanitary measures. However, Switzerland is deeply concerned about the current Polish import requirements for bovine semen and gelatin, which do not appear to be based either on the relevant international standards or on available scientific evidence.

8. In view of the above considerations, Switzerland formally requests the authorities of Poland to lift the import restrictions imposed on bovine semen and gelatin from Switzerland and to provide answers to the above questions in due course.

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