

US RESTRICTION ON THE IMPORTATION OF RUMINANTS, MEAT
AND MEAT PRODUCTS FROM RUMINANTS AND
CERTAIN RUMINANT PRODUCTS

Submission by the European Community at the meeting of 12-13 March 1998

Introduction

1. On 18 December 1997, the United States notified as G/SPS/N/USA/106 an emergency measure concerning the temporary suspension of import permits for certain ruminants and ruminant products into the United States from European countries with unknown BSE status. The prohibition was effective retroactively from 12 December 1997. The above-mentioned temporary regime was followed by a further notification, G/SPS/N/USA/106/Rev.1 of 23 January 1998, which refers to the 6 January Federal Register (docket N. 97-127-1). The new draft refers to the background of the actions taken by the United States, to the reasons for the new restrictions and the procedures to be followed by countries requesting the removal of the said restrictions.

2. The European Community shares the desire of the United States to control BSE and to protect consumers. However, it considers that the above interim rule is discriminatory, scientifically unjustified and contrary to the obligations of the United States under the SPS Agreement.

Specific consideration

3. In accordance with Article 5(8) of the SPS Agreement, the European Community requests an explanation of the reasons for the interim rule, in particular in response to the following points. Under the heading "Background", it is stated that:

"BSE could become established in the United States if materials carrying the BSE agent, such as certain meat and other animal products and by-products from ruminants infected with BSE, are imported into the United States and are fed to ruminants (emphasis added) in the United States. BSE could also become established in the United States if ruminants from countries or other regions in which BSE exists are imported."

- The European Community understands that the United States has introduced a ban on feeding ruminant protein to ruminants, which should preclude the risk of BSE becoming established in the United States even if infected bovine material enters the United States. Does the United States consider that this ban is inadequate, or not effectively enforced?

- Under the rules established by the OIE, ruminants and ruminant products may be traded from countries where BSE exists. Why has the United States not followed the OIE rules?

4. In the same section, it is stated that the United States considers it necessary to restrict imports from countries and regions which have import requirements less restrictive than those of the United States and/or have "inadequate" surveillance. However, the restrictions apply only to European countries.

- Would the United States provide the information which it has concerning import requirements and surveillance programmes which leads it to the conclusions which it has drawn? Would it also provide the information to substantiate its claim that the only countries or regions which have the deficiencies claimed are European countries?

- Does the United States consider it justified to ban imports from countries on the grounds that they do not have import restrictions as restrictive as those of the United States, which are more restrictive than required by the OIE?

5. Under the heading "Reasons for New Restrictions", it is claimed that BSE cases in Belgium and Luxembourg were processed and entered the animal food chain, and that this "potentially infected" feed may have been moved to other European countries. Moreover, it is claimed that the finding of BSE infectivity in tissues previously not known to be infective increases the risk posed by this "potential" movement.

6. The European Community points out that EC legislation requires cadavers to be processed at a minimum of 133 C, 3 bar pressure, for 20 minutes (Commission Decision 96/449/EC) in order to remove BSE infectivity. Furthermore, EC legislation forbids the feeding of mammalian protein to ruminants. In addition, there is no reason to suppose that the range of tissues which are potentially infective increases any possible risk to the United States, since all tissues are subject to the same processing rules and feed ban.

- Why does the United States consider the above factors to be a justification for amending its requirements in respect of European countries?

7. It is stated that the new research findings concerning infectivity in bone marrow, dorsal root ganglion and trigeminal ganglion are the reason for the United States to ban the import, previously allowed, of deboned meat from which nervous and lymphatic tissues have been removed. However, the European Community is unaware of any new research findings in respect of such meat, and points out that the tissues referred to by the United States are removed in the deboning process.

- Why does the United States not apply the OIE rules for trade in deboned meat from countries with BSE?

8. Under the heading "Procedures for Requesting Removal of Restrictions", certain information is requested. We would make the following remarks:

- Point 2 requests information on the existence and prevalence of the "BSE agent". Since no such "agent" has been identified, how does the United States consider that this question could be answered?

- Point 3 requests information on the status of adjacent regions with respect to the "agent", and point 5 requests information on the separation of regions by "physical or other barriers". Given that BSE is spread by the use of infected feed, as stated in the "Background" section of the US document, what is the relevance of these questions?

Conclusion

9. The European Community hopes that the above comments will be taken into account as required by Annex B of the SPS Agreement. The European Community looks forward to developing the discussion with the United States and urges them to review and modify the interim rule in order to ensure that it is based on available scientific advice, existing international recommendations and does not constitute an unnecessary restriction to international trade.
