

**RESTRICTION TO THE EXPORT OF MILK POWDER FOR
HUMAN CONSUMPTION TO PANAMA**

Statement by the European Communities at the Meeting of 8-9 November 2000

1. Denmark has exported milk powder for human consumption (infant milk formula) to Panama since 1994. Since then, several thousand tons of milk powder have been exported to Panama and sold on the local market without any sanitary problem being recorded.
2. It is essential to emphasize that since 1994 the relevant product's formula, known under the trademark name of Milex Kinder 1-5, has not been changed and it has been exported to several countries. During this period complaints as regards the sanitary guarantees offered have never been reported to the producers or to the Danish national authorities.
3. Since April 2000, the relevant authorities in Panama have delayed issuing of the import permits and certificates necessary for importing milk powder for human consumption. This results *de facto* in a ban on the import of milk powder to Panama.
4. Notwithstanding the continuous requests of the Danish national authorities and of the local business operators, the Ministry of Agricultural Development (MIDA) in Panama has not provided any justification whatsoever of the restrictions imposed and have not provided the Danish authorities with any new or modified regulation concerning the production and placing on the market of milk powder for human consumption. No draft legislation has been notified to the WTO/SPS Secretariat either.
5. In the light of the above, we believe the measures to be in breach of the SPS Agreement's requirements, notably Articles 2, 3 and 5.
6. In accordance with Article 5.8 of the SPS Agreement, the European Communities would welcome additional information. In particular, it would be grateful for a response to the following questions:
 - 6.1 Could Panama indicate if a new or modified regulation concerning the production and placing on the market of the relevant product exists? If so, could Panama indicate why such a measure has not been notified to the WTO/SPS Secretariat as provided for by Article 7 and Annex B of the SPS Agreement?

The European Communities would appreciate receiving the relevant legislation.

- 6.2 In consideration of Articles 2.2, 3.1, 3.2 and 5 of the SPS Agreement, could Panama indicate what is the scientific justification behind the relevant restriction?

- 6.3 Could Panama indicate if similar restrictions apply to other WTO Members?
- 6.4 Could Panama provide the list of countries eligible for export of milk and other dairy products, with a specific reference to milk powder for human consumption?
- 6.5 Could Panama confirm that it applies the same production and processing requirements to both imported and domestic products and that no discrimination is applied whatsoever?

Conclusions

7. The European Communities expresses its concerns on the Panamanian import requirements for infant milk formula which pose serious restrictions on trade and, to the best of our knowledge, is not based on scientific findings.

8. The European Communities requests written replies to the above listed questions and would welcome a further exchange of views to work toward a mutually favourable solution.
