

GENERAL AGREEMENT ON TARIFFS AND TRADE

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IMPORT DUTY ON VITAMIN B12 IN THE UNITED STATES

Request by the European Communities for Consultations under Article XXIII:1

The Commission of the European Communities has transmitted to the secretariat the following communication, dated 18 March 1981, to the United States with the request that it be circulated to the contracting parties.

1. I have been instructed by my authorities to inform you that the Community regrets that recent discussions held in the context of GATT Article XXII:1 have not led to any change in the current practice by the United States of charging a duty of 34.4 per cent (TSUS No. 412.56) on imports of vitamin B12 feedgrade quality.
2. Vitamin B12 feedgrade quality, together with a number of other chemicals, including vitamin B12 pharmaceutical quality, was formerly classified in TSUS No. 407.85 and submitted to a duty of 17 £ per lb. + 12.5 per cent (bound in Kennedy Round) plus any extra paid as a result of ASP valuation.
3. Vitamin B12 feedgrade quality and vitamin B12 pharmaceutical quality were both subject to different charges resulting from ASP valuation. The feedgrade quality historically entered the United States with an ASP charge of US\$3.45 to US\$3.50 per gram of active substance, resulting in an effective duty of 21.9 per cent. The pharmaceutical quality entered with an ASP charge of US\$11.2 per gram of active substance, resulting in an effective duty of ± 40 per cent. This situation remained unchanged during the last three years of the existence of the ASP system. During that time, there was no indication that the United States Customs had technical difficulties in distinguishing between both qualities and make them liable to different ASP charges.
4. In order to obtain the abolition of the ASP system of valuation, the Community, along with its other MTN negotiating partners, accepted that the United States could incorporate the extra duty charged in the past as a result of ASP valuation

into the base rate for Tokyo Round tariff reductions. In agreeing to this, the Community reserved the right to raise any problems it had in respect of the converted rate for particular products and the United States undertook to examine these on a case-by-case basis with a view to finding a mutually acceptable solution.

5. The Community never accepted the converted rate of 1.7 £ per lb. + 40.4 per cent for the feedgrade quality. It duly asked that the TSUS No. 412.56 be split to provide for a converted base rate of duty of not more than 21.9 per cent for this product, which would be subject to the MTN tariff reduction to 16.2 per cent applicable to the whole of TSUS No. 412.56. The United States MTN delegation agreed to examine the possibility of separately classifying the feedgrade quality and asked for further information and documentation, which was supplied. The Community, when accepting the ASP Agreement for other chemical products, had formally reserved its position on the conversion proposed by the United States on vitamin B12. Subsequently, the Community raised the matter on a number of occasions, both in Geneva and Washington, as well as in GATT XXII:1 consultations held on 5 February 1981. At the time of the announcement of the duty increase, United States importers of feedgrade made representations against the fact that increase would affect the imports of feedgrade very severely. Practically no imports took place after 1 July 1980, with the result that one simple United States manufacturer had the benefit of a monopoly in the market.

6. The Community considers that the current situation represents a nullification and impairment of its GATT rights on this product. The United States is therefore formally requested under the provisions of GATT Article XXIII:1 to give promptly further consideration to the proposals put forward by the Community for solution in this matter (cf. 5 above).

7. A copy of this request for action under GATT Article XXIII:1 has been sent to the Director-General of GATT.