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GENERAL AGREEMENT ON TARIFFS AND TRADE

ACCESSION OF PORTUGAL AND SPAIN TO THE EUROPEAN COMMUNITIES

Communication from the Delegation of Argentina

The following communication, dated 5 November 1986, has been received from the delegation of Argentina.

With reference to the communication from the delegation of the European Communities, circulated as document L/6052 dated 7 October last, the delegation of Argentina wishes to point out the following:

I. The statement made in our note of 11 July last (L/6022) to the effect that the agreement between the United States and the European Community had been reached under the provisions of Article XXIV:6 of the General Agreement was based on the record of the meeting of the Working Party on the Accession of Spain and Portugal of 8 July (document Spec(86)46 dated 24 September last, page 12, paragraph 22) in which the relevant passage is as follows:

"Concerning references to the Community's recent bilateral discussions with the United States, this was, in the Community's view, a question which had arisen out of bilateral negotiations under Article XXIV:6. In that context, every contracting party was fully entitled to resolve problems in a way that was acceptable to both sides."

II. In the communication circulated as L/6052 various observations were made whose justification the Argentine delegation considers doubtful.

(a) In the third paragraph, the temporary arrangement with the United States is said to be purely autonomous.

This term seems to be in contradiction with the rules of the General Agreement, under which no autonomous decisions may be made on tariff headings bound under GATT without prior consultation with the parties affected as principal supplier or as having a substantial interest.

(b) The statement in the same paragraph that the "arrangement" related to products for which GATT bindings had been withdrawn

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appears to be in clear contradiction with the provisions of Article XXVIII:1 under which the consultations and the agreement on compensation for withdrawal of concessions with parties having a principal supplying interest or a substantial interest, must be prior to effective withdrawal of the said concessions.

- (c) The principle of "no innovation" should have been respected until agreement had been reached with the principal suppliers or parties having a substantial interest in maize and sorghum in the Spanish market. It is contrary to the General Agreement to impose on a contracting party which complies with the above requirement, worse conditions of access than for the party with which the temporary arrangement was negotiated.

This is apparent from the interim arrangement itself (point 3(c)) and from the information memo issued on 2 July last by the spokesman for the EEC (IP(86)340) according to which there is a guaranteed monthly import from the United States to the Spanish market of 234,000 tons of the products mentioned in the preceding paragraph I for the period 1 July to 31 December 1986. The arrangement indicates that if imports are below the quantity mentioned, the Community will take necessary measures to permit the import into the EEC of the shortfall by means of a reduced-levy quota.

The condition of security of supply was not granted to the Argentine Republic, which was not consulted despite being the principal supplier of sorghum to the Spanish market and having a substantial interest in maize. The result has been virtually total loss of that market in 1986.

III. The establishment of an access quota under the provisional arrangement for sorghum and maize implies the existence of quantitative restrictions following the admission of Spain to the Community market. The procedures envisaged in Article XIII:2 for non-discriminatory allocation have not been followed since a temporary arrangement has been negotiated with a single supplier.

IV. Adoption of the bilateral arrangement between the EEC and the United States has delayed the negotiation process required under Articles XXIV and XXVIII, meaning that GATT obligations regarding the withdrawal of tariff bindings are being disregarded.

V. The Argentine Republic has suffered virtually the entire loss of its exports of maize and sorghum to the Spanish market in 1986, by reason of discrimination vis-à-vis another contracting party.

It considers itself entitled to prompt compensation, in terms of Article XXIV:6, for the injury suffered and the consequences of the withdrawal of tariff bindings by the EEC following the accession of Spain.

Accordingly, it hopes that the informal consultations initiated with the EEC will lead to concrete action designed to correct the situation under reference and restore the benefits accruing to it under the General Agreement.