

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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JAPAN - RESTRICTIONS ON IMPORTS OF CERTAIN AGRICULTURAL PRODUCTS

Follow-up on the Panel Report

Request for consultations under Article XXII:1 by New Zealand

The following communication, dated 21 August 1992, sent by the Permanent Mission of New Zealand to the Permanent Mission of Japan in Geneva, is circulated in accordance with paragraph C.3 of the CONTRACTING PARTIES' 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/62).

I have been asked by my authorities to inform you of New Zealand's desire to be joined in the consultations under Article XXII:1 of the General Agreement on Tariffs and Trade sought by Australia, in Ambassador Hawes' letter to you of 20 August, regarding the non-implementation of certain of the recommendations of the Panel report on "Japan - Restrictions on Imports of Certain Agricultural Products". This request is made in the light of New Zealand's substantial trade interest in the matter and pursuant to the 1958 "Procedures under Article XXII on Questions Affecting the Interests of a Number of Contracting Parties" (BISD 7S/24).

In addition, I wish to convey New Zealand's request to hold bilateral Article XXII:1 consultations with Japan on the above matter pursuant to the 1989 "Improvements to the GATT Dispute Settlement Rules and Procedures" (BISD 36S/61). The reasons for this request are set out below. In formalizing this request, I can inform you that New Zealand would consider the requirements of such consultations as being met through our participation in the plurilateral consultations initiated by Australia.

You will recall that the GATT Council adopted the Panel report (L/6253) concerning Japan's import restrictions on twelve categories of agricultural products, including certain dairy and starch products, at its February 1988 meeting (C/M/217). The Panel concluded that Japan's import restrictions on these products were not consistent with Japan's obligations under Article XI of the General Agreement. The recommendations of the Panel report were that Japan eliminate or otherwise bring into conformity

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with GATT provisions its quantitative restrictions on import of the products subject to the complaint. A list of the Panel's conclusions in respect of the import restrictions on these dairy and starch products is attached.*

Japan notified GATT contracting parties (L/6389) of measures it was undertaking to implement the Panel report and bring its measures into GATT conformity on 12 September 1988. The measures notified included:

liberalization of imports for several dairy products (frozen yoghurt, whipped cream in pressurized containers, ice cream and protein concentrates); improved import access for a three year period for some other dairy products (prepared whey for infant formula, whey powder for animal feed and mineral concentrated whey, together with a miscellaneous quota covering various other dairy-based products) but within the continued system of import quotas; liberalization of imports of sugars and sugar syrups (but excluding lactose); and liberalization of imports of food preparations consisting mainly of sugar. However, Japan's notification did not include any measures to implement the recommendations in the Panel's report in respect of other dairy and starch products subject to the Panel report. Nor did all those measures notified fully comply with the Panel's recommendations.

Japan's failure to implement, or in some cases fully to implement, certain of the recommendations in the panel report on dairy and starch products has been discussed since September 1988 in several GATT Council meetings. It is our understanding that Japan has still not fully implemented all these recommendations. Japan has indicated that it would decide on measures affecting certain dairy products and starch following the outcome of the Uruguay Round (for example, C/M/247, pp 15-16). The linkage by Japan of full implementation of all recommendations to the Uruguay Round outcome, and Japan's delay in bringing its import restrictions into conformity with the provisions of the General Agreement, is not accepted by New Zealand. The failure by Japan fully to implement all the recommendations of the Panel, and the maintenance by Japan of import restrictions which do not conform with the requirements of the General Agreement, nullify or impair benefits accruing to New Zealand under the General Agreement. New Zealand therefore requests consultations with Japan on the non-implementation of certain of the recommendations in the Panel report on the above-mentioned dairy and starch products under Article XXII:1 of the General Agreement, in accordance with the 1989 Decision in Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/61).

* Contracting parties may consult this list at the GATT Secretariat, Office No. 2028.