

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

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EEC - IMPORT REGIME FOR BANANAS

Communication from Colombia, Costa Rica
Guatemala, Nicaragua and Venezuela

The following communication, dated 23 June 1993, addressed to the Permanent Representative of the Commission of the European Communities, has been received from the Permanent Missions of Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela in Geneva, with the request that it be circulated to contracting parties.

We have the honour of replying to your letter of 18 June 1993 concerning the participation of third contracting parties in the Panel proceedings on the Regulation of the Council of the European Communities on the Common Organization of the Market in Bananas (No. 404/93).

As we stated at the meeting of 16 June last, in which the Council of Representatives approved the setting up of a Panel, the participation of all third contracting parties in the proceedings of the Panel should be governed by the relevant provisions established by the CONTRACTING PARTIES, namely the rules set out in the Decision of 12 April 1989 on Improvements to the GATT Dispute Settlement Rules and Procedures. In accordance with the above Decision, any third contracting party having a substantial interest in the matter, and having notified this to the Council, shall have an opportunity to be heard by the Panel and to make written submissions thereto. These submissions shall also be given to the parties to the dispute and shall be reflected in the Panel report. Consequently, in accordance with the above Decision, participation in the work of the Panel by contracting parties that do not have a substantial interest in the matter can in no way be justified.

It is clear that the measures to be examined by the Panel are measures adopted by the European Community, to be applied solely by the European Community. Accordingly, any request for participation by third contracting parties, other than the participation established in the rules, is inadmissible. The cases referred to in your letter (citrus fruit, semi-conductors) do not constitute valid precedents in the present circumstances. Both were prior to the 1989 Decision defining and delimiting the participation of third parties, and both concern situations in which there was an agreement between the parties to the dispute which does not create obligations.

We consider that observance of the principles and rules on which the GATT dispute settlement system is based to be of fundamental importance in all disputes brought before a panel and we can see no reason why those principles and rules should not be observed in the present case.

For the foregoing reasons, our Governments cannot entertain the European Community's request. We recognize and accept the participation of third contracting parties within the limits laid down in Part F(e) of the 1989 Decision, provided that such parties fulfil the requirements therein.

Lastly, our Governments are deeply concerned at the way in which the European Community is attempting to depart from both the spirit and letter of the GATT rules on dispute settlement.