

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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EEC - RESTRICTIONS ON IMPORTS OF PRESERVED SARDINES AND TUNA

Communication from Singapore on behalf of the ASEAN contracting parties

The following communication, dated 8 July 1993, has been received from the Permanent Mission of Singapore, on behalf of the ASEAN contracting parties, with the request that the matter be inscribed on the Agenda of the Council meeting on 21 July 1993.

1. As from 1 January 1993, the import restrictions maintained by a few of the EEC member States in respect of preserved sardines and tuna were replaced by a common quota system in accordance with Council Regulation (EEC) No. 3759/92 of 17 December 1992 on the Common Organization of the Market in Fishery and Agriculture Products.

2. The chapeau of Regulation No. 3759/92 reads: "... for some products, in order to enable the Community processing industry to adjust its production conditions in such a way as to improve its competitive position with regard to imports from certain third countries, Community import arrangements should be introduced on a temporary basis for the said products...".

The stated objective is to limit the development of the quantities imported of the products in question. Provisions under Chapter 21 of Title IV clearly stipulate the formation of the common system of quantitative restrictions applicable to imports of varieties of preserved sardines and tuna for a period of four years.

3. Special rules of application have been detailed in Commission Regulation No. 3900/92. Quota levels for 1993 have been fixed at 2,250 and 74,100 tonnes for preserved sardines and tuna respectively. Administration of quotas has been conducted through import licensing. According to this Regulation, imports from third countries "... not linked to the Community by a conventional preference agreement or in countries linked to the Community by an agreement not covering the said products..." are subject to the restrictions.

Therefore, not only EEC member States but also certain groups of EEC trading partners are exempted from the application of these restrictions, while, at the same time, continuing to receive preferential tariff treatment at zero rate.

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4. Tuna canning industries in ASEAN countries, particularly Thailand, the Philippines and Indonesia, are export oriented and, so far, have significantly contributed to employment generation and incomes. However, these industries in ASEAN have already been suffering from various types of restrictive measures employed by several developed countries, particularly those which are their major markets. As a result, ASEAN exports of canned tuna and sardines have been on the declining trend.

5. ASEAN had long enjoyed a competitive status as a major supplier of canned tuna and sardines to the EEC despite the fact that there existed import restrictions applied by some member States and that the common tariff applicable to these products had been maintained at high rates. In 1991, the EEC imports of canned tuna from ASEAN amounted to 32.84 per cent of its total import volume.

6. The common system of import restrictions imposed by the EEC has, in law and in effect, constituted increased barriers to imports of preserved sardines and tuna as it has restricted access to markets of EEC member States where tariffs were used as the sole border measure. Furthermore, the new régime has also aggravated access opportunity for ASEAN as well as for other third countries vis-à-vis EEC producers and countries which are not only exempted from the quota system but also allowed duty-free entry to the EEC market.

7. The EEC restrictions on imports of preserved sardines and tuna are clearly of a quantitative nature, and thus contrary to Article XI:1 of the General Agreement. The measure will also have to be viewed against other GATT provisions, such as Article II.

8. ASEAN wishes to draw attention of the Council with respect to the existence of the new EEC import régime and to the fact that ASEAN has held a series of informal consultations with the EEC on the measures in question. ASEAN intends to keep the Council informed of developments as they may arise from further consultations with the EEC.

9. We also wish to reserve the right to invoke the dispute settlement procedures under the General Agreement.