

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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CONTRACTING PARTIES
Forty-Ninth Session

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UNITED STATES - LEGISLATION CONCERNING THE USE OF IMPORTED
TOBACCO BY DOMESTIC CIGARETTE MANUFACTURERS

Recourse to Article XXIII:2 by Canada

The following communication, dated 25 January 1994, has been received from the Permanent Mission of Canada.

At the request of Canada (DS44/1 of 27 September 1993) and other countries, consultations were held with the United States on 4 October 1993, under Article XXIII:1 of the General Agreement on Tariffs and Trade with respect to measures maintained by the United States affecting the importation and internal sale of tobacco.

During these consultations, Canada raised its concerns that the tobacco provisions of the Agricultural Reconciliation Act of 1993 (the "Act") were inconsistent with US obligations under the General Agreement.

The Act (Title I of the Omnibus Reconciliation Act of 1993) entered into force on 10 August 1993. The Act imposes heavy penalties on US cigarette manufacturers who source more than 25 per cent of their annual tobacco requirements for manufacturing cigarettes from non-US production. The Act also includes three assessments on raw tobacco imports, one of which imposes a fee on imports of flue-cured and burley tobacco to fund the domestic price-support program. The other assessments are an inspection fee to be levied on imported tobacco and a marketing assessment fee to be paid by importers of flue-cured and burley tobacco.

The Act will severely curtail and possibly eliminate Canadian exports of unmanufactured tobacco to the United States. As well, it will serve to reduce the exports of other countries to the United States, resulting in a reduction of tobacco prices around the world. This will have a profound impact on all our producers.

Canada made clear during the consultations its position that the Act is inconsistent with US GATT obligations, and in particular, but not limited to, the provisions of Articles III:1, III:2, III:4 and III:5. Canada expressed its concern that the extension of "no-cost" fees to imports may also be inconsistent with Article II. Depending on the manner in which the mixing regulations are implemented, this legislation also could be inconsistent with Article XI:1. Canada also raised its concern that the implementation of the Act nullifies or impairs benefits that Canada could have reasonably expected to accrue to it under the General Agreement when the US tariff on unmanufactured tobacco was bound.

The consultations have to date not produced satisfactory results.

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In the absence of any indication that the United States is prepared to reach a mutually satisfactory resolution of this matter, and given the damaging effect that the Act is having on Canadian tobacco producers and exporters, Canada hereby requests the CONTRACTING PARTIES to establish a panel under Article XXIII:2 of the General Agreement to examine the conformity of the US tobacco measures with the General Agreement.