

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

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UNITED STATES - DENIAL OF MOST-FAVoured-NATION  
TREATMENT AS TO NON-RUBBER FOOTWEAR FROM BRAZIL

Follow-up on the Panel report (DS18/R)

Communication from Brazil

The following communication, dated 9 June 1994, has been received from the Permanent Mission of Brazil with the request that the matter be inscribed on the Agenda of the Council meeting on 21 June.

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Two years ago, on 19 June 1992, the GATT Council adopted a panel report which concluded that the United States acted inconsistently with Article I:1 of the General Agreement (document DS18/R). The Brazilian delegation then expressed the view that adoption of a panel report implied compliance with its conclusions, and reiterated the expectation that the United States would take the necessary steps to bring itself into conformity with the GATT.

Since June 1992, Brazil addressed this issue in every regular meeting of the Council but one. The question was also raised during the Session of the CONTRACTING PARTIES in December 1992. It has been stressed that the discrimination found by the Panel continues to hamper Brazil's trade as each day passes. Brazil has also point out that one of the pillars of the GATT - the m.f.n. principle - is at stake in this dispute and that the persistence of the United States in delaying the implementation of the Panel report signals contempt for the GATT dispute settlement system.

In response to Brazil's statement, the United States informed the Council, in several meetings in the past two years, that a decision on the matter was about to be taken; a final solution for the outstanding issues of this dispute, according to the delegation of the United States, was to be found in the foreseeable future.

In the meeting held on 22 September 1993, Brazil informed the Council that the Government of the United States had, in a domestic court case related to the facts of this Panel, insisted on the very position found to be violating the GATT. Brazil urged the United States to at least begin bringing itself into conformity with the Panel's finding by ceasing to advance that position in court.

Since then, the Government of the United States continued to defend in the referred court case the same position contrary to the m.f.n. principle. On 10 May 1994, the United States Court of International Trade denied a motion based on reasons which were found to be sound and valid by the GATT Council. Such decision, although taken by a domestic body, may have effects which extrapolate the internal jurisdiction of the Court of International Trade. Brazil believes this issue is a matter of concern for all members of the Council.

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Brazil once again urges the United States to comply with the conclusions of the Panel report on denial of m.f.n. treatment as to non-rubber footwear and to end two years of continuous recognized violation of a fundamental principle of the GATT.