

GENERAL AGREEMENT ON

RESTRICTED

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TARIFFS AND TRADE

Committee on Technical Barriers to Trade

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REQUEST FOR THE ESTABLISHMENT OF A TECHNICAL EXPERT GROUP

The following communication, dated 13 July 1987, has been received from the delegation of the United States.

THE EC ANIMAL HORMONE DIRECTIVE (85/649/EEC)

United States Request for the Establishment of a Technical Expert Group Pursuant to Article 14.9 of the Agreement

Introduction

On April 29, 1987, the Delegation of the United States requested the Committee on Technical Barriers to Trade (Committee) to begin an investigation of its dispute with the European Community (EC) relating to the EC's animal hormone directive (85/649/EEC). (See previous documents TBT/Spec/18 and TBT/Spec/19). The Committee has pursued its investigation through two meetings (on May 22 and June 24). Under the terms of the Agreement on Technical Barriers to Trade (Agreement), if no mutually satisfactory solution to the dispute is reached during the course of its investigation, the Committee is required to establish a Technical Expert Group (TEG) if the U.S. so requests, within three months of our original request for a Committee investigation (i.e., not later than 29 July).

Request for a Technical Expert Group

On the basis of discussion in the Committee's investigation thus far, the U.S. Delegation does not believe that it will prove possible for the matter to be resolved through a continued Committee investigation. Since the dispute involves questions of a technical and scientific nature, we request the establishment of a Technical Expert Group pursuant to Article 14.9.

The proposals of the United States for the TEG are based directly on the language of the Agreement -- Article 14 and Annex 2 -- and, where the language of the Agreement on the subject is incomplete, on well-accepted procedures for the workings of such scientific groups.

Proposals in Respect of the TEG

1. Terms of Reference:

The United States proposes that the TEG be given the following terms of reference:

"To examine the technical aspects of the matter referred to the Committee by the United States in document TBT/Spec/18 and to make such findings, including findings concerning the detailed scientific judgments involved, as will assist the Committee in making recommendations or giving rulings on the matter. Specifically, the technical expert group should address the question of whether the measure (the EC requirement that meat for human consumption be from animals not treated with hormones) is necessary for the protection of human health or whether human health can also be assured through other means."

2. Composition and Selection Criteria:

Noting that Paragraphs 1 and 2 of Annex 2 to the Agreement provide some guidance for the Committee in relation to the composition and selection criteria for a TEG in general, the United States makes the following proposals in respect of the TEG in the specific situation of the present case:

(a) The members of the TEG should not be citizens of the United States or the EC Member States, as explicitly provided in Annex 2.

(b) There should be three members of the TEG. Paragraph 11 of the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (L/4907) provides that panels should have three or five members depending on the case. Given the reduction in the pool of qualified scientific experts because of the exclusion of experts from the U.S. and the EC, three members would appear more appropriate than five.

(c) The members of the TEG must be experts in endocrine (anabolic) pharmacology. Further, members of the TEG shall have demonstrated expertise in hormonal toxicology; such expertise should be confirmed by written evidence of any of the following:

(1) Published scientific papers in refereed journals on the subject of safety and/or effectiveness of growth-promoting hormones;

(2) Presentations in recognized international fora on the same subject; or

(3) Participation in expert groups considering the same subject.

3. Operating Procedures:

(a) The purpose of the TEG is to examine the technical aspects of the EC requirement that meat for human consumption be from animals not treated with hormones.

(b) The TEG should make such findings, including findings concerning the detailed scientific judgments involved, as will assist the Committee in making recommendations and giving rulings on the matter.

(c) The TEG should address the question of whether the EC requirement (that meat for human consumption be from animals not treated with hormones) is necessary for the protection of human health or whether human health can be assured through other means.

(d) The TEG must complete its work within the six-month time frame specified in Paragraph 14.11 of the Agreement, and should do so more quickly since the EC action will take effect on January 1, 1988.

(e) The TEG may require the parties to present papers which explain their scientific position on the effect on human safety of the use of anabolics in food animals.

(f) The TEG may choose to expedite its work by reviewing the recent efforts of other expert groups considering this subject, such as the Joint Expert Committee on Food Additives of the Codex Alimentarius or the Lamming Committee of the EC.