

3 June 1981

EUROPEAN COMMUNITIES - UNITED KINGDOM APPLICATION
OF EEC DIRECTIVES TO IMPORTS OF POULTRY FROM THE UNITED STATES

*Report of the Panel adopted on 11 June 1981
(L/5155 - 28S/90)*

1. In communications dated 24 July 1980 and 29 September 1980 and which were circulated to CONTRACTING PARTIES, the United States presented a complaint that the United Kingdom had, since 1 May 1980, prevented the importation of United States poultry not in compliance with Statutory Instrument 1979, Number 693, Schedule I, Part II (an instrument implementing EC Directive 71/118 as supplemented by EC Directive 78/50). As poultry produced in the United Kingdom was by derogation exempted from the requirements of the statutory instruments, the United States considered the United Kingdom action to be a violation of Article III, and consequently that benefits accruing to the United States under the General Agreement were being nullified and impaired. Consultations pursuant to Article XXIII:1 had not led to a satisfactory adjustment of the matter and the United States consequently requested the establishment of a panel, pursuant to Article XXIII:2, to examine the matter and make such findings as would assist the CONTRACTING PARTIES in making recommendations and rulings as appropriate (L/5013 and L/5033).

2. In a communication dated 6 October 1980, the European Communities stressed the following factual aspects of the case to be that: this was a matter only of temporary derogations limited to the marketing stage, in order to allow an adjustment period for certain undertakings encountering difficulties in adopting the processes required by Community regulations; authorities of exporting third countries had been advised of the need to comply with the Community directive; there was no significant impediment to the volume of United States exports, since the exporting firms had been able to adjust rapidly to the requirements of the directive; certain United States exporting firms had reconverted without any delay or difficulty while others were still making the necessary adjustments; and the number of United Kingdom undertakings benefiting from a derogation was declining steadily. Furthermore, the provisions of Article XX, and notably XX(b) were recalled. It was argued that EEC Directive No. 71/118/EEC as supplemented by EEC Directive No. 78/50/EEC, and its application by a Member State was in no way in violation of obligations of the European Communities, under the General Agreement. The European Communities declared itself ready to develop its arguments in any forum in the fullest details and in good faith (L/5040).

3. The Council had a first discussion of the matter at its meeting on 9 October 1980 and then agreed to establish a panel and furthermore authorized the Chairman to decide on its composition and on appropriate terms of reference, in consultation with the parties (C/M/143, page 9).

4. At the Council meeting on 18 December 1980 the Chairman informed the Council that the following terms of reference had been given for the Panel:

"To examine, in light of the relevant GATT provision, the matter referred to the CONTRACTING PARTIES by the United States relating to United Kingdom application of EEC Directives to imports of poultry (L/5013 and L/5033), and to make such findings as will assist the CONTRACTING PARTIES in making recommendations or rulings as provided in Article XXIII".

and that the composition of the Panel was the following:

Chairman: H.E. Ambassador M. Trucco (Chile)

Members: Mr. Ki-Choo Lee (Republic of Korea)
Mr. M. Pullinen (Finland)

5. In a communication dated 13 May 1981, the United States informed contracting parties that it withdrew its request for examination under Article XXIII:2 of the complaint, and that the withdrawal of the complaint was without prejudice to the United States rights under the General Agreement, which were reserved (L/5149).

6. In light of the communication mentioned in paragraph 5 above (L/5149), the Panel considered that it could terminate its work and submit the present factual report to the Council, in accordance with paragraph 17 of the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26 Suppl./213).