

GENERAL AGREEMENT ON
TARIFFS AND TRADE

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SPAIN - MEASURES CONCERNING DOMESTIC SALE OF SOYBEAN OIL

Recourse to Article XXIII:2 by the United States

The following communication dated 25 October 1979 has been received from the United States Mission, with the request that it be circulated to the contracting parties.

ARTICLE XXIII:2 CONSULTATIONS ON SOYBEAN OIL

The United States intends to present the following complaint to the GATT Council on November 16 unless bilateral consultations between the United States and Spain result in a settlement of the problem prior to that date:

Complaint by the Government of the United States of America against certain practices of the Government of Spain affecting the domestic sale of soybean oil processed from imported soybeans.

General

The United States of America hereby requests that the Contracting Parties review under Article XXIII certain measures maintained by the Government of Spain on the domestic sale of soybean oil in light of the obligations of the Spanish Government under the General Agreement on Tariffs and Trade (GATT), and determine that these practices nullify and impair benefits accruing to the United States under the GATT.

Jurisdiction

This complaint is filed in accordance with paragraph 2 of Article XXIII. On October 15-16, 1979, the United States held consultations with the Spanish Government under GATT Article XXIII paragraph 1 to find a satisfactory solution to this problem. During these consultations, a copy of this complaint was provided to the Government of Spain. However, these consultations were not successful and the United States is now invoking the dispute settlement procedures in Article XXIII, paragraph 2.

Request for Panel

The United States requests the establishment of a panel to review the allegations in this complaint in light of the provisions of the GATT and to recommend the immediate removal of the practices in question.

Complaint

1. The Government of Spain maintains an internal quantitative restriction and price controls on the sale of soybean oil processed from imported soybeans. The quantitative restriction and price controls are inconsistent with the obligations of the Government of Spain under Article III of the General Agreement and deny certain benefits that should accrue to the United States from the Spanish tariff concession on soybeans.

2. The purpose and effect of the internal quantitative regulation is to discriminate against domestic sales of soybean oil processed from imported soybeans so as to afford protection to the domestic production of other edible oils. Consequently, the measure violates the explicit provisions of paragraph 1, and the second sentence of paragraph 5, of Article III. Further, the application of this restriction to soybean oil processed from imported soybeans but not to soybeans oil processed from domestic soybeans is inconsistent with paragraph 4 of Article III.

3. The Government of Spain applies domestic price controls on soybean oil which are overly restrictive relative to competing edible oils and have the effect of discouraging the processing and retailing of soybean oil. For these reasons such measures are inconsistent with Article III.

4. The internal quantitative restrictions on domestic sale of soybean oil are administered by the General Supply Commission (CAT), an instrumentality of the Spanish Government. The CAT controls the domestic marketing of soybean oil by virtue of its monopoly control under Spanish Law over the marketing of soybean oil. The Government of Spain has failed to comply with its obligations under Article XVII regarding the operation of State trading enterprises. In particular, the Spanish Government has failed to require that the CAT operate on a non-discriminatory basis in its purchases and sales as required by Article XVII.

5. The purpose and effect of the internal quantitative regulation is to eliminate -- or substantially impair -- the benefits to be derived from the processing of imported soybeans in Spain. In this manner, the United States has been denied a significant benefit of the Spanish tariff concession on soybeans to which the United States had reasonable expectations of receiving at the time the concession was negotiated.

Request for Relief

The United States requests that the Panel find a prima facie case of nullification or impairment and that the Contracting Parties recommend that the Government of Spain remove these measures immediately.