

GENERAL AGREEMENT ON TARIFFS AND TRADE

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EEC - IMPORTS OF POULTRY FROM THE UNITED STATES

Statement by the European Communities Regarding United States Recourse to Article XXIII:2 in Respect of EEC Imports of Poultry

The following communication, dated 6 October 1980, has been received from the delegation of the European Communities for the information of the CONTRACTING PARTIES.

In its request under Article XXIII:1 (L/5013 of 8 August 1980) and subsequently under Article XXIII:2 (L/5033 of 29 September 1980), the United States referred to certain actions by a member State of the Community in pursuance of Community regulations, namely the prohibition of imports of poultry not chilled in accordance with the processes provided for in those regulations (by air or immersion in a counter-flow of water). It stated that those actions were a violation of Article III of the General Agreement since, according to the United States, that member State was allowing its producers to market poultry chilled by other processes.

In discussions and consultations held in various places and at all levels, the Community has endeavoured to clarify the problem with United States representatives, underlining in particular from the factual aspect:

- 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 the Community regulations;
- that there was no significant impediment to the volume of United States exports, since the exporting firms were sufficiently dynamic to be able to adjust rapidly, within the prescribed periods, to the requirements of the directive, as indeed almost all the Community undertakings have already done;
- that the authorities of exporting third countries had been advised a very long time ago of the need to comply with the Community directive;

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- that certain United States exporting firms had re-converted without any delay or difficulty while others were still making the necessary adjustments;
- that the number of United Kingdom undertakings benefiting from a derogation is declining steadily.

On the occasion of the consultation under Article XXIII:1 requested by the United States, when the latter invoked for the first time Article III of GATT - before then it had based its case on the Agreement on Technical Barriers to Trade - the Community pointed out that the General Agreement did not consist solely of Article III but that there were other provisions just as relevant to the matter and which contracting parties had to observe, such as in particular Article XX.

In this connexion the Community wishes to recall the wording of that Article which covers, inter alia, sanitary, veterinary and plant-health measures, hence the measures disputed by the United States in the matter under reference. That Article stipulates that:

"SUBJECT TO THE REQUIREMENT that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO PREVENT THE ADOPTION OR ENFORCEMENT BY ANY CONTRACTING PARTY OF MEASURES: ... (b) necessary to protect human, animal or plant life or health."

On numerous occasions the Community has made a clear and irrefutable demonstration that EEC Directive No. 71/118/EEC (as supplemented by Directive No. 78/50/EEC) and its application by a member State are in no way in violation of the Community's obligations under the General Agreement. The Community is ready, therefore, if the Council so wishes, to develop its arguments in any forum in the fullest details and in complete good faith.

It wishes to underline, nevertheless, that questions of the kind that the United States has raised are of the utmost importance because they bear directly on the duty of each contracting party to protect the life and health of persons and animals.