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ARTICLE XXVIII:3 NOTIFICATION IN RESPONSE
TO ACTIONS BY THE EUROPEAN ECONOMIC COMMUNITY
UNDER ARTICLE XXIV

Schedule XX - United States

The following communication, dated 30 November 1990, has been received from the Permanent Mission of the United States.

On 13 February 1986, in document L/5936/Add.2, the European Economic Community gave notice that, pursuant to Article XXIV, it had withdrawn Schedule XLV of Spain, Schedule XLIV of Portugal and Schedule LXXII and LXXIIBIS of the European Community of 10. The European Economic Community forwarded a copy of EC Council Regulation No. 3330/85 containing the Community's offer under Article XXIV:6, suspended the rates laid down in the offer, and indicated that the rates in Schedules LXXII and LXXIIBIS would apply for the EC of 10, with Spanish and Portuguese rates aligning onto EC rates according to the timetable foreseen in the Treaty of Accession. However, where the EC of 10 rate was not bound and a variable levy applied, the corresponding Spanish and Portuguese trade was subjected to the variable levy (in excess of 100 per cent ad valorem) since 1 March 1986 notwithstanding the existence of any Spanish or Portuguese concessions and without prior examination of these actions in GATT or prior negotiation of compensation.

The above withdrawals had an immediate damaging effect in particular on the trade in two concessions made by Spain to the United States in previous negotiations, namely TSUS Item 10.05BII bound at 20 per cent (corn, not hybrid, not for sowing) and TSUS Item 10.07CII bound at 20 per cent (sorghum, not for sowing). The United States holds initial negotiating rights on both of these items and was the principal supplier of corn. The United States had also been a principal supplier of sorghum to Spain, together with Argentina. According to Spain's import statistics, 1981-1983 average annual Spanish imports of corn and sorghum from the United States amounted to US\$624 million.

Following the actions by the European Economic Community, the United States on several occasions communicated its views to the EC regarding the EC actions, in particular on those actions affecting corn and sorghum. The United States requested compensation for the corn and sorghum actions by 1 July 1986 which were to be factored into the results of the Article XXIV:6 negotiations.

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Since the European Economic Community had already effected the withdrawal of the Spanish concessions on corn and sorghum and replaced them with variable levies, without agreement on compensation as provided in Articles XXIV:6 and XXVIII, the United States found it necessary, as provided in the procedures of paragraph 3 of Article XXVIII, to notify the suspension of certain concessions in Schedule XX (see L/5997, 26 May 1986). The suspensions took effect thirty days from the receipt of that notice by the contracting parties (which for the purposes of that notice was the day of receipt by the secretariat).

Negotiations continued and on 29 January 1987, the Government of the United States and the European Community entered into an agreement under Article XXIV:6. That agreement set forth several measures to be taken by the EC and temporarily compensated the United States by, inter alia, reducing duty rates on an autonomous basis on twenty-nine products and ensuring a minimum access level of imports from non-EC sources of 2,000,000 metric tons of corn and of 300,000 metric tons of sorghum into Spain for consumption. Those measures are to apply until 31 December 1990. The agreement also specified that both parties would initiate in July 1990 a "major review of the situation ... with the objective of determining at that time what new action, if any might be appropriate". Both parties reserved "full GATT rights including those which would otherwise be time-limited".

On 31 March 1988, the United States notified the contracting parties that the suspended bindings listed in document L/5997 were restored, subject to the provisions of the United States-European Community Agreement of January 1987. (See L/5997/Add.2, 31 March 1988.)

In July 1990, representatives of the Government of the United States and the EC met to initiate the "review of the situation" which had been provided for in the January 1987 Agreement. Notwithstanding the United States right under GATT Article XXIV to continued compensation for the withdrawal of concessions associated with the addition of Portugal and Spain to the EEC, the EEC has failed to extend such compensation beyond 31 December 1990, and has refused to continue a review of the situation at this time.

Where a contracting party to the GATT has withdrawn a concession in the expansion of a customs union, Article XXIV of the GATT entitles other contracting parties to negotiated compensation, or, in the absence of a successful negotiation, to use Article XXVIII to "withdraw substantially equivalent concessions". The Article XXVIII right is time-limited to six months. The agreed "review of the situation" began in July and has not resulted in a negotiated continuation of compensation to the United States. If negotiations to continue compensation to the United States are not successful, then compensation under the 1987 Agreement will expire at midnight on 31 December 1990. Moreover, the time-limited Article XXVIII right could be construed, in this case, to expire on 31 December 1990, unless exercised.

Therefore, without agreement on compensation as provided in Article XXIV:6 and XXVIII, the United States will find it necessary, as provided in the procedures of paragraph 3 of Article XXVIII, to suspend certain tariff concessions in Schedule XX, effective midnight, 31 December 1990.

Accordingly, the United States hereby notifies the suspension of concessions in Schedule XX as listed in the attachment.¹ The suspensions shall take effect at midnight on 31 December 1990, in the absence of a successful settlement. The existing duty rates will continue to be applied until further notice is given to the CONTRACTING PARTIES. For the purposes of this notice, the day of receipt by the secretariat shall be the date of receipt of this notice by the CONTRACTING PARTIES.

The United States continues to reserve its rights with respect to the withdrawals of concessions in Schedules XLV, XLIV, LXXII, and LXXIIBIS as announced by the European Economic Community on 13 February 1986.

¹English only

ARTICLES ON WHICH UNITED STATES TARIFF CONCESSIONS IN SCHEDULE XX UNDER
THE GENERAL AGREEMENT ON TARIFFS AND TRADE ARE SUSPENDED

United States Imports in 1987-1989 from Principal and Substantial Suppliers

[For each tariff sub-heading contained herein, this tabulation lists (a) GATT countries which supplied 10 per cent or more of average annual U.S. imports in the sub-heading in 1987-1989 from all GATT sources. The European Community is treated as a single "country" in this tabulation.]

(Value in thousands of dollars)

Tariff sub-heading	Product/country	1987	1988	1989	Average 1987-1989
0406.40.60	Blue-veined cheese, other than Roquefort, in original loaves	10,261	8,935	6,428	8,541
	GATT countries, total.....				
	EC	10,261	8,935	6,428	8,541
0406.40.80	Blue-veined cheese, other than Roquefort, not in original loaves	497	230	506	411
	GATT countries, total				
	EC	409	230	506	382
0406.90.15	Edam and Gouda cheeses	18,349	16,251	9,951	14,850
	GATT countries, total				
	EC	17,542	15,640	9,567	14,249

Tariff Sub-heading	Product/country	1987	1988	1989	Average 1987-1989
0705.21.00	Witloof chicory (<u>Cichorium intybus</u> var. <u>foliosum</u>), fresh or chilled				
	GATT countries, total	7,661 ¹	8,652 ¹	12,909 ¹	9,741 ¹
	EC	7,409 ¹	8,509 ¹	12,371 ¹	9,430 ¹
0705.29.00	Chicory, other than Witloof chicory, fresh or chilled				
	GATT countries, total	2/	2/	2/	2/
	EC	2/	2/	2/	2/
0802.40.00	Chestnuts (<u>Castanea</u> spp.) fresh or dried, whether or not shelled or peeled				
	GATT countries, total	6,246	8,073	10,205	8,175
	EC	5,796	7,693	9,564	7,684
1514.90.90	Rapeseed, colza or mustard oil, and fractions thereof, refined but not chemically modified, not denatured or imported to be used in the manufacture of rubber substitutes or lubricating oil				
	GATT countries, total	22,885	63,829	48,667	45,127
	Canada	22,870	54,124	41,833	39,609
	EC	-	9,705	6,834	5,513

See footnotes at end of table.

Tariff Sub-heading	Product/country	1987	1988	1989	Average 1987-1989
2001.90.25	Artichokes, prepared or preserved by vinegar or acetic acid GATT countries, total	17,877	25,154	11,091	18,041
	EC	17,837	25,093	10,979	17,970
2005.90.50	Pimentos (<u>Capsicum annum</u>), prepared or preserved otherwise than by vinegar or acetic acid, not frozen GATT countries, total	9,997	10,243	8,850	9,697
	EC	9,955	10,015	8,331	9,434
2005.90.80	Artichokes, prepared or preserved otherwise than by vinegar or acetic acid, not frozen GATT countries, total	7,563	7,541	24,170	13,091
	EC	7,523	7,461	24,108	13,031
2201.10.00	Mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured GATT countries, total	72,889	93,232	89,890	85,337
	EC	66,051	80,224	78,540	74,938

See footnotes at end of table.

Tariff sub-heading	Product/country	1987	1988	1989	Average 1987-1989
2205.10.30	Vermouth in containers holding 2 litres or less				
	GATT countries, total	18,164 ³	17,065 ³	17,221 ³	17,483 ³
	EC	18,164 ³	17,060 ³	17,220 ³	17,481 ³
2205.90.20	Vermouth in containers each holding over 2 litres but not over 4 litres				
	GATT countries, total	$\frac{4}{1}$	$\frac{4}{1}$	$\frac{4}{1}$	$\frac{4}{1}$
	EC	$\frac{4}{1}$	$\frac{4}{1}$	$\frac{4}{1}$	$\frac{4}{1}$
2205.90.40	Vermouth in containers each holding over 4 litres				
	GATT countries, total	$\frac{4}{1}$	$\frac{4}{1}$	$\frac{4}{1}$	$\frac{4}{1}$
	EC	$\frac{4}{1}$	$\frac{4}{1}$	$\frac{4}{1}$	$\frac{4}{1}$
2208.20.40	Spirits, except pisco and singani, obtained by distilling grape wine or grape marc (grape brandy), in containers each holding not over 4 litres, valued over \$3.43/litre				
	GATT countries, total	$\frac{5}{1}$	$\frac{5}{1}$	27,369 ⁵	27,369 ⁵
	EC	$\frac{5}{1}$	$\frac{5}{1}$	27,123	27,123 ⁵

See footnotes at end of table.

Tariff sub-heading	Product/country	1987	1988	1989	Average 1987-1989
2208.20.60	Spirits, except pisco and singani, obtained by distilling grape wine or grape marc (grape brandy), in containers each holding over 4 litres, valued over \$2.38/litre	<u>5</u> /	<u>5</u> /	339	339 ⁵
	GATT countries, total	<u>5</u> /	<u>5</u> /	338	338 ⁵
	EC				
2208.90.45	Cordials, liqueurs, kirschwasser and ratafia				
	GATT countries, total	229,659	221,879	231,229	227,589
	EC	203,911	196,941	203,647	201,500
411.00.00	Composition leather with a basis of leather or leather fibre, in slabs, sheets or strip, whether or not in rolls				
	GATT countries, total	13,426	12,123	12,767	12,772
	EC	13,027	11,647	12,231	12,302

See footnotes at end of table.

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- ¹ Includes imports of chicory in sub-heading 0705.29.00.
 - ² Imports of chicory in sub-heading 0705.29.00 are included in statistics shown for sub-heading 0705.21.00.
 - ³ Includes imports of vermouth in sub-headings 2205.90.20 and 2205.90.40.
 - ⁴ Imports of vermouth in sub-headings 2205.90.20 and 2205.90.40 are included in statistics shown for sub-heading 2205.10.30.
 - ⁵ Data on imports corresponding to sub-headings 2208.20.40 and 2208.20.60 were not separately reported in 1987 and 1988. Imports reported in 1989 are also used as a proxy for average imports in 1987-1989.

Articles on which United States Tariff Concessions
in Schedule XX under the General Agreement on Tariffs and Trade
are Suspended

[Note. - All concessions were established in protocol G/HS/88]

Tariff sub-heading	Article	Rate of duty
0406.40.60 0406.40.80	<p>[The bracketed language in this list has been included only to clarify the scope of the numbered sub-headings on which concessions are being suspended, and such language is not itself intended to describe articles on which concessions are suspended.]</p> <p>Cheese and curd: Blue-veined cheese: [Roquaafort] Other: In original loaves Other</p>	15% 20%
0406.90.15	<p>Other cheese: Edam and Gouda cheeses</p>	15%
0705.21.00	<p>Lettuce (<u>Lactuca Sativa</u>) and chicory (<u>Cichorium spp.</u>), fresh or chilled:</p>	0.33 cents/kg.
0705.29.00	<p>Chicory: Witloof chicory (<u>Cichorium intybus</u> var. <u>foliosum</u>) Other</p>	0.33 cents/kg.
0802.40.00	<p>Other nuts, fresh or dried, whether or not shelled or peeled: Chestnuts (<u>Castanea spp.</u>)</p>	Free

Articles on which United States Tariff Concessions
in Schedule XX under the General Agreement on Tariffs and Trade
Are Suspended

[Note. - All concessions were established in protocolG/HS/88]

Tariff sub-heading	Article	Rate of duty
1514.90.90	<p>Rapeseed, colza or mustard oil, and fractions thereof, whether or not refined, but not chemically modified: [Crude oil] Other: [Imported to be used in the manufacture of rubber substitutes or lubricating oil] Other: [Denatured] Other</p>	7.5%
2001.90.25	<p>Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid: [Cucumbers including gherkins] [Onions] Other: [Capers] Other: Vegetables: Articoles</p>	12%

Tariff sub-heading	Article	Rate of duty
2005.90.50	<p>Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen: [Sweet corn (<u>Zea mays</u> var. <u>saccharata</u>)] Other vegetables and mixtures of vegetables: Fruits of the genus <u>Capsicum</u> (peppers) or of the genus <u>Pimentos</u> (e.g., allspice): <u>Pimentos</u> (<u>Capsicum annuum</u>)</p>	9.5%
2005.90.80	Artichokes	17.5%
2201.10.00	<p>Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow: Mineral waters and aerated waters</p>	0.4 cents/ litre
2205.10.30	<p>Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances: In containers holding 2 litres or less: Vermouth</p>	5.5 cents/ litre

Tariff sub-heading	Article	Rate of duty
2205.90.20	Other: Vermouth: In containers each holding over 2 litres but not over 4 litres	5.5 cents/litre
2205.90.40	In containers each holding over 4 litres	8.5 cents/litre
	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent vol.; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages:	
	Spirits obtained by distilling grape wine or grape marc (grape brandy):	
2208.20.40	[Pisco and singani] Other: In containers each holding not over 4 litres: Valued over \$3.43/litre	13.2 cents/pf. litre
2208.20.60	In containers each holding over 4 litres: Valued over \$2.38/litre	10.6 cents/pf. litre

Tariff sub-heading	Article	Rate of duty
2208.90.45	Other: Cordials, liqueurs, kirschwasser and ratafia	13.2 cents/ pf. litre
4111.00.00	Composition leather with a basis of leather or leather fibre, in slabs, sheets or strip, whether or not in rolls	2.8%