

GENERAL AGREEMENT ON

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UNITED STATES - COUNTERVAILING DUTY ON PORK FROM CANADA

Communication from Canada

The following communication, dated 11 April 1991, has been received from the Permanent Mission of Canada with the request that it be circulated to contracting parties and inscribed on the Agenda for the Council meeting of 24 April.

More than seven months ago the Panel Report on the U.S. imposition of countervailing duties on imports of Canadian pork was delivered to the U.S. Government. Since then, on five successive occasions, the U.S. has blocked the adoption of the report. This is not acceptable.

In refusing to adopt the Panel Report, the U.S. has not justified its course of action with any reference to the GATT Dispute Settlement Procedure. The U.S. has not indicated any disagreement with the facts before the panel nor disputed the panel's interpretation of the provisions of the General Agreement. Nor has there been any indication that it disagrees with the recommendations of the panel.

The U.S. refusal to adopt the Panel Report can only serve to undermine the integrity of the GATT dispute settlement process and the right of the CONTRACTING PARTIES to confirm the interpretation to be applied to the rules of GATT. The U.S. and other contracting parties must recognize the damaging precedent this could set. Moreover, the U.S. refusal to adopt runs directly counter to the position the U.S. has advocated with conviction in the Uruguay Round Negotiations on improvements to the dispute settlement system.

The U.S. asserted that this matter is being dealt with in the case under the Canada-U.S. FTA. As the U.S. is aware, the cases being examined under the GATT and the FTA differ in substance. The FTA panels are examining whether U.S. law is being applied correctly, as a matter of U.S. law, while the GATT Panel examined whether the U.S. action was consistent with U.S. obligations under GATT. The law under which the countervailing duty action on pork was taken (Section 771B of the Tariff Act of 1930 as amended) remains in effect and could be used again.

Canada therefore requests the U.S. to agree to the adoption of the report at the April Council Meeting.