

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

RESTRICTED

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EUROPEAN ECONOMIC COMMUNITY - PAYMENTS AND SUBSIDIES PAID  
TO PROCESSORS AND PRODUCERS OF OILSEEDS AND RELATED  
ANIMAL-FEED PROTEINS

Follow-up on the Panel report

Communication from the United States

The following communication, dated 31 October 1991, has been received from the Office of the United States Trade Representative in Geneva, with the request that it be circulated to contracting parties.

1. In 1962, as a part of the outcome of the Dillon Round, the European Community agreed to duty-free bindings for oilseeds and oilmeals. Subsequently, the EC established, in 1966, a support system for rapeseed and sunflowerseed. In 1974, a similar scheme was introduced for soybeans.
2. EC regulations provide for subsidies to be paid on rapeseed and sunflowerseed harvested and processed within the Community, to make up for the difference between the target price and the world market price whenever the target price is higher than the world market price, which has generally been the case. Subsidies are paid to oil processors and producers of animal feeds whenever they establish by documentary evidence that they have transformed oilseeds of Community origin. The guide/minimum price scheme for soybeans is based on the same principles.
3. At the request of the United States, a panel was established in June 1988 to examine the matter under Article XXIII:2. The Panel submitted its report to the parties to the dispute on 30 November 1989.
4. The Panel found that the EC's system of providing supports for oilseed production could discriminate against imported products, and that this risk of discrimination was in itself a form of discrimination and was inconsistent with the national treatment provisions of Article III of the General Agreement.
5. The Panel also found that the subsidy schemes of the Community operate so as to protect Community producers of oilseeds completely from the movement of prices of imports and thereby prevent the oilseeds tariff concessions from having any impact on the competitive relationship between domestic and imported oilseeds.
6. The Panel concluded that the EC should bring its regulations into conformity with the General Agreement. The Panel further concluded that

since the same regulations gave rise to both problems and that a correction of the Article III violation might also resolve the nullification and impairment problem, the CONTRACTING PARTIES should take no further action under Article XXIII:2 in relation to the impairment of concessions until the Community had a reasonable opportunity to adjust its regulations to conform to Article III:4.

7. The Panel report was adopted by the Council on 25 January 1990 (L/6627).

8. The Community stated at the time of adoption that it accepted the recommendations of the Panel, and that it would comply with the recommendations in full. The Community gave the United States assurances that it would propose the necessary corrections to its regulations after the Brussels Ministerial meeting of December 1990 so that the EC would be in compliance with GATT obligations by the 1991 crop year.

9. Subsequently, the Community informed the United States that it would be unable to modify the oilseeds régime in 1991/92 to the extent necessary to bring it into full conformity with the Panel's findings. The United States informed the Community that, in its opinion, the changes that were included in the 1991 price package were of little consequence in addressing either the impairment issue or the national treatment violation.

10. On 24 May 1991, the European Community informed the United States that it would have a definitive solution to the Panel recommendations on oilseeds approved by the EC Council by 31 October 1991. Further, the reforms would apply to all oilseeds harvested in calendar year 1992 or later.

11. Following the EC Commission's promulgation of the proposed new oilseeds régime on 31 July 1991, the United States conducted a careful review. The United States informed the Community that it found that the proposed policy changes fell short of the goal of bringing the oilseeds régime into conformity with its obligations under the GATT. Furthermore, the proposal was to be in effect for only one year, pending further reform of the Common Agricultural Policy.

12. In consequence, on 24 September 1991, the United States proposed to the European Community that the original oilseeds Panel be reconvened to consider whether the steps taken by the EC are sufficient to comply with the Panel's findings.

13. Because there are currently no specific GATT procedures for examining measures taken to comply with panel findings, the United States proposed that Paragraph K.4 of the current Uruguay Round text on dispute settlement, which has been supported by the Community in the negotiations, would be an appropriate procedure. This paragraph provides as follows:

"Where there is disagreement as to the existence or GATT consistency of measures taken to comply with the recommendations and rulings under Article XXIII:2, such dispute shall be decided through recourse to GATT dispute settlement procedures, involving resort to the original panel wherever possible."

14. In addition, the United States proposed that the timetable for the Panel be expedited by mutual agreement so that the Panel would issue its report within 45 days.

15. The Community informed the United States on 16 October, that it did not agree with the US assessment of the oilseed proposals, adding that as the new régime was, at that point, still in the proposal stage, the request of the United States was premature.

16. On 22 October, the Council of the European Communities approved a programme for oilseeds that was only slightly modified from the Commission's original proposal. The view of the United States remains that the programme does not meet the obligations of the European Community under the General Agreement.

17. Thus, the United States asks that the CONTRACTING PARTIES agree to reconvene the original oilseeds Panel under the following terms of reference:

"To examine, in light of the findings and conclusions of the Panel adopted by the CONTRACTING PARTIES in document L/6627, whether steps taken by the European Community will bring its Regulations providing for payments to seed processors conditional on the purchase of oilseeds originating in the Community into conformity with the General Agreement and will eliminate the impairment of its tariff concessions on oilseeds; and to make such findings, within 45 days, as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2."