

GENERAL AGREEMENT ON

RESTRICTED

TARIFFS AND TRADE

DS36/1

6 January 1993

Limited Distribution

Original: English

ARGENTINA - COUNTERVAILING DUTIES ON CANNED PEACHES FROM GREECE

Request for Consultations under Article XXIII:1 by the European Community

The following communication, dated 18 December 1992, from the Permanent Delegation of the Commission of the European Communities in Geneva, is circulated in accordance with paragraph C.3 of the CONTRACTING PARTIES' 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/62).

According to the Resolution No 1272/92, published in the Official Bulletin of 12 November 1992, Argentina has imposed countervailing duties on imports of peaches in syrup originating in Greece.

The Resolution contains no substantive evidence that the allegedly subsidized imports in question have caused or threatened material injury to the domestic industry in question, as required by Article VI.6(a) of the General Agreement.

Although the question of injury is briefly mentioned, there is no factual information given which demonstrates the existence of material injury, nor any evidence relating to a causal link between the imports involved and any injury that may be suffered.

Furthermore, the brief section on injury alleges that one of the effects of the imports has been to prevent the renewal of plantations, presumably referring to the growers of peaches. Other elements mentioned in this paragraph also seem to concern peach growers. The Commission would like to point out that the 1959 report "Anti-dumping and countervailing duties" adopted by CONTRACTING PARTIES (BISD 8S/150, paragraph 18) states that judgments of material injury should be related to national output of a like commodity. In this area, countervailing duties have been imposed on imports of processed peaches in syrup, which are not a like product to fresh peaches in their natural state. Therefore, measures against the processed product cannot be justified by reference to alleged injury to peach growers, since these growers do not constitute the appropriate domestic industry for the purpose of Article VI:6(a) of the General Agreement.

./.

The Commission also reminds Argentina that this proceeding was opened on the basis of a threat of injury only, in view of the very low level of Community exports to Argentina in 1991. It would now like to know what factors have transformed this threat into the actual injury alleged in the Resolution.

In view of the above arguments, the European Community considers that Argentina has failed to carry out its obligations under Article VI of the General Agreement.

The European Community therefore requests to enter into consultations with Argentina under Article XXIII:1 of the General Agreement, in accordance with the 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/62).