

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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EEC - IMPORT REGIMES FOR BANANAS

Communication from Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela

The following joint communication, dated 22 February 1993, has been received from the Permanent Missions of Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela, with the request that it be circulated to contracting parties.

On behalf of the Governments of Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela, acting jointly and severally, each in the exercise of the rights accruing to it as a contracting party to the General Agreement, and with reference to the European Community's request transmitted on 15 February 1993, we have the following to state:

In accordance with the Decision of the Council of Representatives of 10 February 1993 a panel will examine the banana import régimes of certain Member States of the European Community, specifically those of Belgium, Denmark, Spain, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom. In the request for consultations under Article XXII:1 (document DS32/1) and above all during the good-offices process under the Decision of 1966 on Procedures under Article XXIII, information was provided on the legal basis and factual aspects of the case in question.

The Panel is to examine the matters discussed during the stage of consultations and good offices of the Director-General, taking as a reference all relevant documents (DS32/1 of 24 June 1992, DS32/2 of 3 July 1992, DS32/3 of 29 September 1992, DS32/4, DS38/2 of 8 February 1993, DS32/5, DS38/3 of 10 February 1993, and DS32/6 of 16 February 1993). It will also have to take account of the information furnished by the parties to the Director-General under paragraph 2 of the Decision of 1966, as well as the minutes of the meetings held in the context of these good offices.

In order that this document may serve as a guide for the examination of the dispute in question, and without prejudice to the fact that all the above-mentioned documents must constitute the frame of reference for the Panel, we outline below the factual and legal aspects which form the basis of this dispute.

The European Community's market in bananas is protected by a GATT-bound tariff of 20 per cent and by a set of non-tariff measures applied in varying ways by a number of the EC Member States.

Broadly speaking, the applicable régimes may be classified in three groups: protected, semi-protected and free. Supplies in turn come from three sources: Community production, imports from ACP countries, and exports from third countries, including Latin American suppliers.

Germany is the biggest European consumer and importer of bananas. It is supplied basically by Latin American fruit, and in practice imports enjoy a free trade régime under the Protocol to the Treaty of Rome which allows Germany to establish a duty-free quota that is adjusted periodically according to demand.

The semi-protected markets are those of Belgium, Denmark, Greece, Ireland, Luxembourg and the Netherlands, which apply the 20-per-cent bound tariff without any quantitative restrictions to third country suppliers. Bananas from ACP States enter these countries duty-free and without any non-tariff barriers.

The protected markets are basically Great Britain, France, Italy, Spain and Portugal. In these markets bananas from ACP countries enter free of tariff and non-tariff barriers whereas imports from Latin America are subject to the 20-per-cent tariff as well as a range of quantitative restrictions, import licences and, in some cases, quasi-prohibitions.

The Panel established at the meeting of the GATT Council of Representatives of 10 February 1993 is to examine the banana import régimes of the above-mentioned Member States of the European Community, in the light of their obligations and our rights under the General Agreement, in particular those set forth in Articles I, II, XI, XIII, XXIV, Part IV and all other relevant articles of the General Agreement.

We consider that the above-mentioned banana import régimes nullify or impair our rights and benefits, within the meaning of Article XXIII:1, paragraphs (a) and (b), having regard to the fact that they adversely affect our country's trade and opportunities for trade in bananas.