

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

RESTRICTED

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Surveillance Body

ACTIONS TAKEN REGARDING MEASURES WHICH WERE  
FOUND BY THE CONTRACTING PARTIES  
TO BE INCONSISTENT WITH THE GATT

Note by the Secretariat

As the Chairman's Summary of the Current Situation on Implementation of the Standstill and Rollback Commitments (MTN.SB/13, Annex II) noted in paragraph 21, the Secretariat was requested to examine whether it could supply, for the October meeting of the Surveillance Body, a list of measures which have been found by the CONTRACTING PARTIES, following Panel findings, to be inconsistent with the General Agreement, and any information available regarding actions taken in response to such findings.

The present note has been prepared by the Secretariat in response to this request. It is based on information contained in GATT documents, particularly a Note by the Secretariat for the Negotiating Group on Dispute Settlement (MTN.GNG/NG13/W/4/Rev.1) and another Note by the Secretariat for the Negotiating Group on Non-Tariff Measures (MTN.GNG/NG2/W/70). It is also supplemented in some cases by information supplied directly to the Secretariat by the parties concerned.

<u>Complaint against/by, and date of adoption of Panel report</u>	<u>Measure</u>	<u>Product coverage</u>	<u>Reference</u>	<u>Information provided to GATT on actions taken</u>
1. United States/ Netherlands  26 October 1951	Import restrictions	Dairy products	II/16, 1S/31,32,62, 2S/28,3S/46, 4S/31,99, 5S/28,142, 6S/14,157, 7S/23,128	In 1952, the CONTRACTING PARTIES, noting that import restrictions continued to be applied by the United States, adopted a decision to authorize the Netherlands to suspend the application to the United States of their obligations under the General Agreement. Concessions were suspended by the Netherlands on wheat flour, on the basis of the CONTRACTING PARTIES' annual resolutions, during the period 1952 to 1959.
2. Greece/ United Kingdom  3 November 1952	Increase of bound import duties (coefficients for currency conversion)	A number of products included in Schedule XXV	1S/23,51, SR.8/7	At the Eight Session, the Greek delegation informed the CONTRACTING PARTIES that the measures in question had been rescinded on 20 July 1953 (SR.8/7).
3. Belgium/Norway and Denmark  7 November 1952	The levy of a charge on foreign goods purchased by public bodies when these goods originated in a country whose system of family allowances did not meet specific requirements		1S/59, 7S/68, L/187	At the Ninth Session the CONTRACTING PARTIES were informed that the discriminatory application of the tax had been terminated by a new law which entered into force on 6 March 1954 (L/187).

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4. France/Italy 17 January 1955	Special temporary compensation tax on imports		3S/26, 4S/20, 5S/27, 7S/68	It was reported at the Twelfth Session that the tax had been abolished on 10 August 1957 and replaced by other measures. The CONTRACTING PARTIES therefore considered this matter as having been settled (SR.12/5).
5. France/Australia 21 November 1958	Assistance to exports	Wheat and wheat flour	7S/22,46, L/1323, L/1548, SR.13/8	In October 1960, the Governments of France and Australia notified that an agreement had been reached between the two Governments on 20 April 1960 following discussions held, as a result of the Recommendation of 21 November 1958 of the CONTRACTING PARTIES, on the question of exports of French flour to South East Asian countries (L/1323).
6. France/ United States 14 November 1962	Import restrictions		11S/55,94, L/3744, C/M/80,81,83	In September 1972, the United States proposed to suspend tariff concessions on articles of French origin on grounds that the Government of France had not withdrawn restrictions inconsistent with Article XI, in conformity with the recommendation of the CONTRACTING PARTIES. The Council, at its meeting of December 1972, noted that bilateral consultations

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7. Canada/ United States  16 November 1962	The application of values for duty	Potatoes	11S/55,88, L/1968, L/2682	had been carried out between the United States and France, and deferred discussions on the item (C/M/83).  In January 1963, the Canadian Government advised the Secretariat that the Minister of National Revenue had ordered the cancellation of the value for duty on potatoes, effective on 2 January 1963 (L/1968). In July 1966, the Canadian Government informed the Secretariat of the decision to establish values for duty on imports of potatoes until 31 August 1966 (L/2682).
8. <sup>1</sup> a. Austria/ Uruguay	Import permit requirements and mixing regulations	Meat, edible oils, yarn of combed wool, wool textiles, and wheat	11S/102, 13S/38,50	The report of the Panel (L/2278), adopted on 3 March 1965, noted that all the items had been liberalized, or brought into conformity with the General Agreement, in response to the Panel recommendations.

<sup>1</sup>The countries listed here were part of the fifteen countries against which complaints were brought to the CONTRACTING PARTIES by Uruguay. The Panel report with recommendations addressed to these seven countries was adopted on 16 November 1962. It has been pointed out that the information provided to GATT on actions taken does not necessarily provide an accurate picture of the situation at the present time. In some cases, measures have lapsed or been overtaken by new measures or policies e.g. those resulting from the emergence of EC competence or from the negotiation of agreements under the Multifibre Agreement.

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b. Belgium/Uruguay	Import permit requirements and quotas	Meat, linseed oil, edible oils, oilcake and meal, and combed wool	11S/105, 13S/40,50	The above-mentioned Panel report (L/2278) noted that some items had been liberalized, and that the Belgian authorities maintained their position that the measures relating to all the other items was purely administrative and not restrictive or incompatible with GATT. The representative of Belgium noted, at the Council meeting on 30 October 1964, that his Government considered that the items in question were de facto liberalized (L/2278/Add.1).
c. France/Uruguay	Import permit requirements and quotas	Meat, combed wool, yarn of combed wool, and woollen textiles	11S/120, 13S/41,51	The above-mentioned Panel report (L/2278) noted that the measures applying to combed wool and meat had been, or were to be, removed in 1963 to 1964. The report also noted that imports of yarn of combed wool and woollen fabrics had been liberalized for OECD countries, and the liberalization would be extended to other countries, including Uruguay. It was pointed out by the French delegation that there was no known case in which a licence application had been denied for imports of these products from Uruguay.

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d. Germany, Fed. Rep./ Uruguay Import permit requirements and quotas	Meat, leather, woven fabrics of wool or of fine animal hair, and yarn of combed wool	11S/125, 13S/41,52	The above-mentioned Panel report (L/2278) noted that the discriminatory quota applying to meat had been replaced by a global quota in 1962, and that the import permit quota on leather had been removed in 1964. Some of the remaining items were liberalized in 1965 (L/2278/Add.1), while the recommendations of the CONTRACTING PARTIES were outstanding on certain other measures.
e. Italy/ Uruguay Quotas	Meat, linseed oil	11S/128, 13S/43,53	The above-mentioned Panel report (L/2278) noted that by November 1964, all the Italian restrictions covered by the recommendations of the CONTRACTING PARTIES would have been removed.
f. Norway/ Uruguay Import permit requirements	Meat	11S/136, 13S/43,54	The above-mentioned Panel report (L/2278) noted that the Norwegian Government had initiated a study to determine whether the restrictions in question should be considered as consistent with the General Agreement; on the basis of this study, the Norwegian Government was to take a position as to possible changes in the import system for agricultural goods. The report noted that up to then, the Government had not acted on the report by the officials.

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8. Sweden/ Uruguay	Import permit requirements	Meat	11S/139, 13S/44	The Panel report (L/2074), adopted on 3 March 1965, noted that the Panel considered that, by removing the import permit requirement in respect of frozen and chilled bovine meat of Uruguayan origin, the Government of Sweden had complied with the relevant recommendation of the CONTRACTING PARTIES.
9. EC/ United States 14 March 1978	Requirements for the compulsory purchase of skimmed milk powder for use in animal feed	Skimmed milk powder	25S/49	
10. EC/ United States 18 October 1978	Minimum import price and associated additional security system	Certain processed fruits and vegetables	25S/68	
11. Norway/ United Kingdom on behalf of Hong Kong 18 June 1980	Import restrictions	Certain textile products	27S/119, C/M/141.144	At the meeting of the Council held in November 1980, the representative of Norway stated that his Government would take a decision on Norway's import régime for 1981 on 17 November 1980, taking into account the Council decision of 18 June 1980, as Norway understood it (C/M/144).

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12. EC/Chile 10 November 1980	Apples Import restrictions	27S/98, C/M/144	At the Council meeting of November 1980, on the occasion of the adoption of the Panel report, the EC representative expressed willingness to enter into bilateral consultations with Chile in pursuance of the Panel recommendation (C/M/144).
13. EC/Canada 10 March 1981	Beef Tariff quota	28S/92, C/M/146	At the Council meeting of March 1981, on the occasion of the adoption of the Panel report, the EC representative stated that his authorities had taken note of the report and were examining its consequences (C/M/146).
14. Spain/Brazil 11 June 1981	Unroasted coffee Tariff treatment	28S/102, C/M/151	Spain informed the Council at its meeting of October 1981 that, following high level discussions in Brazilia, Spain had informed Brazil of the Spanish decision to take the necessary steps prior to 31 December 1981 so that equal tariff treatment would be accorded by Spain to unwashed Arabica and other unroasted coffees. Accordingly, Spain had already started the necessary legislative procedures to modify the Royal Decree 1764/79 (C/M/151).

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15. United States/ EEC	Tax benefits for a US corporation qualified as a DISC (Domestic International Sales Corporation)		23S/98, 28S/114, L/5716,5723, L/5774, C/M/183,185	<p>In December 1981, the Council adopted the Panel report on the understanding that economic processes (including transactions involving exported goods) located outside the territorial limits of the exporting country need not be subject to taxation by the exporting country and should not be regarded as export activities in terms of Article XVI:4 of the General Agreement.</p> <p>In July 1984, the United States Congress enacted the Foreign Sales Corporation Act (FSCA), which replaced the DISC legislation (L/5723). At the Council meeting of November 1984, the United States stated that the FSCA had removed the offending trade practice (C/M/183). Subsequently, the European Communities requested consultations with the United States under Article XXII on the GATT compatibility of the FSCA legislation, including the provision for forgiveness of taxes deferred earlier under DISC (L/5774). At the Council meeting of January 1985, the United States expressed its preparedness to</p>

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16. France/ United States 7-8 December 1981	Income tax practices		23S/114, 28S/114	consult on the issue under Article XXII with the Community and any other contracting parties (C/M/185).  In December 1981, the Council adopted the Panel report on the understanding that economic processes (including transactions involving exported goods) located outside the territorial limits of the exporting country need not be subject to taxation by the exporting country and should not be regarded as export activities in terms of Article XVI:4 of the General Agreement.
17. Belgium/ United States 7-8 December 1981	Income tax practices		23S/127, 28S/114	In December 1981, the Council adopted the Panel report on the understanding that economic processes (including transactions involving exported goods) located outside the territorial limits of the exporting country need not be subject to taxation by the exporting country and should not be regarded as export activities in terms of Article XVI:4 of the General Agreement.

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18. Netherlands/ United States 7-8 December 1981	Income tax practices	23S/137, 28S/114	In December 1981, the Council adopted the Panel report on the understanding that economic processes (including transactions involving exported goods) located outside the territorial limits of the exporting country need not be subject to taxation by the exporting country and should not be regarded as export activities in terms of Article XVI:4 of the General Agreement.
19. United States/ Canada 22 February 1982	Import prohibition Tuna and tuna products	29S/91, C/M/155,156, 159	Before the Panel report was adopted, the United States had lifted the prohibition on imports of tuna and tuna products from Canada, and in July 1981, the two parties had ratified a treaty on Pacific Coast Albacore Tuna Vessels and Port privileges. At the Council meetings of 1982, Canada expressed concern about the possibility of further embargoes by the United States on other Canadian fishery products, and sought the Council's recommendations in this matter. In reply, the United States stated that Canada's apprehension would be speculative in nature and not appropriate for consideration by the Council (C/M/155, 156, 159).

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20. EC/ United Kingdom on behalf of Hong Kong  12 July 1983	Knitwear, clothing, umbrellas, radios, boats, microscopes, toys, and electronic watches	30S/129, C/M/210	In 1983 and 1984, quantitative restrictions on some product categories were removed. At the Council meeting of November 1986, the EC reported that imports of toys had been liberalized, that there had already been a substantial increase in the quota for imports of radios and that further moves were being examined (C/M/203). At the June 1987 Council meeting, Hong Kong reported that the restrictions on imports of toys and radios had been liberalized with effect from 1 January 1987 and that this had brought the dispute to an end (C/M/210).
21. Canada/ United States  7 February 1984	Local purchase requirements in the administration of the Foreign Investment Review Act	30S/140, C/M/194	At the Council meeting of November 1985, Canada informed the Council that the monitoring of existing undertakings had been altered, and this alteration had brought purchase undertakings in existence in February 1984 into conformity with Canada's GATT obligations. Canada had therefore fulfilled the Panel's recommendation (C/M/194).

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22. United States/ Nicaragua 13 March 1984	Import quotas	Sugar from Nicaragua	31S/67, C/M/178,183	At the Council meetings of 1984, the United States stated that the measure in question had been taken for broader reasons than trade considerations, and that to lift the measure would first require a resolution of the broader dispute. The United States recognized that Nicaragua had certain rights under Article XXIII which it had reserved and could continue to exercise (C/M/178,183).
23. United States/EC 15/16 May 1984	Import prohibition under the Manufacturing Clause	Copyrighted work consisting preponderantly of non-dramatic literary material in the English language, the author of which is a United States domiciliary	31S/74, C/M/201	At the Council meeting of July 1986, the United States informed the Council that the Manufacturing Clause had expired as of 1 July 1986 and had not been extended by Congress (C/M/201).
24. Japan/ United States 15-16 May 1984	Quantitative import restrictions	Leather	31S/94, L/5978	In a communication dated 11 March 1986, Japan notified that, as from 1 April 1986, the Government of Japan had eliminated quantitative restrictions on leather imports in accordance with the Panel report while introducing a tariff quota system for these products (L/5978).

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25. EC/Canada 20 November 1984	Tariff quotas	Newsprint from Canada	31S/114, C/M/183	At the Council meeting of November 1984, on the occasion of the adoption of the Panel report, the European Communities stated that, on 1 November 1984, it had submitted a notification that it was ready to begin negotiations on this matter under Article XXVIII, as had been recommended by the Panel (C/M/183).
26. New Zealand/ Finland 18 July 1985	The imposition of anti-dumping duties	Electrical transformers from Finland	32S/55, C/136	New Zealand had decided to implement the report before its adoption and has in the meantime carried out the Panel's recommendations (C/136).
27. United States/ Canada, EC and Mexico 17 June 1987	Discriminatory taxation	Petroleum and petroleum products	MTN.SB/RBN/2	The United States notified the Surveillance Body that on 22 December 1989, President Bush signed legislation to amend the superfund tax in compliance with the Panel's recommendation to apply uniform taxes on imported and domestic petroleum products.
28. Japan/EC 10 November 1987	Discriminatory taxation	Whiskies, brandies, other distilled spirits, liqueurs, still wines, sparkling wines	34S/83, L/6465	Japan informed the Council at its meeting of 8-9 February 1989 that legislation had been passed by the Diet to: (i) abolish the ad valorem tax on whiskies/brandies, wines and certain alcoholic beverages, the

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29. United States/ Canada and EC 2 February 1988	Customs user fee (customs service processing fee)		35S/245, SR.45/2	"grading" system for these beverages as well as taxation according to the extract content of "liqueurs", etc. (ii) reduce considerably existing differences between taxes on whiskies/brandies and "shochu" by reducing the rate of the specific tax, based on quantity, on whiskies/brandies, and by raising that on "shochu" (C/M/228). Detailed information was provided in L/6465.  The United States reported to the 45th Session of the Contracting Parties, meeting on 4 December 1989, that the fees were due to expire in October 1990 and that the United States administration was committed to bringing them into conformity with GATT, should they be renewed (SR.45/2). At the Council meeting of 3 October 1990, the United States informed that the President of the United States had signed into law the Customs and Trade Act of 1990 which included a revision of the customs user fee to bring it into conformity with the GATT obligations of the United States, as set out in the Panel

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30. Japan/ United States  2 February 1988	Import allocation system  Processed cheese, other sugars and sugar syrups, fruit purée and paste, fruit otherwise prepared or preserved, non-citrus fruit juices, tomato juice, ketchup and sauce, food preparations mainly consisting of sugar, prepared and preserved meat and meat products of bovine animals or pigs	35S/163, L/6370, L/6489, C/M/243	<p>report. The EC expressed concerns about the legislation, in particular the structure of the collection of the fee and the lack of provisions for compensation for overcharged fees. In the EC's view, any further extension of the fee beyond the expiry date of the legislation, 30 September 1991, should be conditional on it being modified further, so as to fully reflect the Panel's recommendations.</p> <p>In communications circulated in July and September 1988 (L/6370 and L/6389), Japan notified that the import allocation system for the products in question was to be terminated between 1 October 1988 and 1 April 1990, with transitional measures being taken in the intervening period. At the meetings of the Council held on 19 July 1989 and 14 June 1990, Australia reserved its rights with respect to implementation of the recommendation of the CONTRACTING PARTIES concerning dairy products (C/M/235 and C/M/243). New Zealand associated itself with the views of Australia at these meetings.</p>

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31. Canada/ United States 22 March 1988	Export restrictions	Unprocessed herring and salmon	35S/98, C/M/232	At the Council meeting in May 1989, Canada informed the Council that it had taken steps to remove the export prohibitions on Pacific salmon and herring, in compliance with the Panel's recommendations, and had introduced a GATT-consistent landing requirement (C/M/232).
32. Canada/EC 22 March 1988	Operation of provincial monopolies for supply and distribution ("listing/ delisting" requirement, availability of points of sale, mark-ups greater than additional costs necessarily associated with marketing of imported products)	Alcoholic beverages	35S/37, C/W/590, DS/17/1 C/M/244 C/W/646	The Canadian Minister for International Trade announced on 20 December 1988, that a settlement had been reached with the European Communities on implementation of the GATT Panel Report that found Provincial liquor board practices which discriminated against imported alcoholic beverages to be inconsistent with the GATT. The Canada/EC agreement, formally signed on 28 February 1989, provides: (a) national treatment for EC products including pricing, listing and distribution of spirits; (b) national treatment on the listing and distribution of EC wines; (c) phasing-out of discriminatory mark-ups on wine over seven years, with some exceptions for 100 per cent Canadian wines and some blended wines;

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			<p>(d) national treatment in the listing of EC beer, as well as a cap on the maximum differential mark-up charged on beer. Canada has confirmed that products of other countries would be treated on an m.f.n. basis. A letter exchanged at the time of the agreement affirmed that Canada would bring measures on pricing of beer into conformity with its GATT obligations following a successful conclusion of negotiations on the reduction or elimination of inter-Provincial barriers to trade in alcoholic beverages (C/W/590, page 8).</p> <p>In a communication dated 29 June 1990, the United States stated that most of the discriminatory practices of provincial liquor boards in Canada affecting beer imports, which had been found to be inconsistent with the GATT, remained in place. These practices, including discriminatory price mark-ups and restrictions on the points of sale and on listing, nullified and impaired benefits accruing to the United States under the GATT. According to the United States, Canada had not taken</p>

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such reasonable measures as may be available to it to ensure observance of the provisions of the GATT by the provincial liquor boards, and the United States was therefore requesting consultations under Article XXIII:1 on this matter (DS17/1).

At the Council meeting of 3 October 1990, the United States requested that the Council decide that the circumstances were serious enough to authorize the United States to suspend the application to Canada of appropriate concessions or other obligations. Canada stated that it was engaged in negotiations with the EC with respect to matters which were not in full compliance with the Panel finding. Canada expected the negotiations to conclude before the next Council meeting. The results would be implemented on an m.f.n. basis. Canada also undertook to return to consultations with the United States upon completion of the negotiations with the EC. The Council agreed to revert to the issue at the next or a future meeting.

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33. Japan/EC 4 May 1988	Monitoring of costs and prices of exports to markets other than the United States	Semi-conductors	35S/116, C/M/234	At the Council meeting of June 1989, Japan stated that it had implemented necessary measures to comply with the Panel's recommendations effective on 1 June 1989 (C/M/234).
34. Norway/ United States 21-22 June 1989	Import restrictions	Apples and pears	L/6474, L/6651, C/M/240, DS16/1	In a communication dated 2 March 1990, Norway stated that a new import régime would be introduced to bring the measures applying to imports of apples and pears into conformity with GATT obligations (L/6651). The United States subsequently advised the Council that it questioned whether the replacement measures were consistent with the GATT. Consultations under Article XXIII:1 are continuing (C/M/240, DS16/1).
35. EC/Chile 21-22 June 1989	Import restrictions	Dessert apples	L/6491, C/M/232,234	The measure examined by the Panel report had expired on 31 August 1988 before the adoption of the Panel report.
36. EC/ United States 21-22 June 1989	Import restrictions	Apples	L/6513, C/M/234	The measure examined by the Panel report had expired on 31 August 1988 before the adoption of the Panel report.

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37. United States/ Australia  21-22 June 1989	Imports restrictions	Sugar	L/6514, C/M/234,238, 241	At the Council meeting of 3 October 1990, the United States stated that as of 1 October 1990, the United States had revised its sugar import policy in response to the Panel report. Accordingly, the absolute sugar quota was replaced by a tariff-rate quota. Australia stated that whether the tariff quota introduced by the United States was technically GATT-consistent could only be determined by reference to the sugar régime which the measures were intended to support. Since the shape and provisions of the United States support programme for sugar after October 1990 had not yet been determined by the Congress, Australia intended to revert to this matter at a future date.
38. United States/ EC  7 November 1989	Section 337 of the Tariff Act (enforcement of patent laws in respect of imported products)		L/6439, C/M/237	At the meeting of the Council held on 7 November 1989, the United States stated that the US Administration's ability to obtain legislation amending Section 337 would be maximized should the latter be in the context of legislation implementing the results of the Uruguay Round. The United States was committed to

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39. Korea, Rep. of/ United States, Australia and New Zealand  7 November 1989	Beef  Import restrictions	L/6503, L/6504, L/6505, C/M/237, L/6697	seeking to bring itself into compliance with GATT rules. However, it hoped and expected that broad recognition by contracting parties of the benefits of adequate and effective enforcement of intellectual property rights would lead to a multilateral agreement providing for stronger disciplines in this area (C/M/237).  In a communication dated 4 July 1990, the Republic of Korea circulated the texts of agreements it had concluded with Australia, the United States and New Zealand for the implementation of the recommendations contained in the Panel reports (L/6697).
40. Canada/ United States  4 December 1989	Ice-cream and yoghurt  Import restrictions	L/6568, C/M/243,244 L/6694	At the meetings of the Council held in June, July and October 1990, Canada reiterated that implementation would be considered in the context of the outcome of the Uruguay Round. The United States reserved its rights on this question (C/M/243). In a communication dated 27 June 1990, the United States stated that it continued to seek agreement with Canada on a time-frame during which Canada would comply with its

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41. EC/ United States 25 January 1990	Subsidies	Oilseeds and animal-feed proteins	L/6627, L/6636, C/M/238	obligations under the General Agreement, but that, if no mutually satisfactory solution could be reached, the United States would submit to the Council a detailed request for authorization to suspend concessions (L/6694).  In a communication dated 25 January 1990, the Community stated that it would engage in the process for complying with the recommendations and would adopt the Community regulations in question in the context of the implementation of the results of the Uruguay Round (L/6636). At the meeting of the Council held on 16 May 1990, the Community stated that it would examine the changes which might be brought to its present regulations only when negotiations in the Uruguay Round on the ways and means, which would enable contracting parties to combat the circumvention of anti-dumping duties, had led to results which were satisfactory from a contractual point of view (C/M/241).
42. EC/Japan 16 May 1990	Anti-circumvention duties	Parts and components	L/6657, C/M/241	obligations under the General Agreement, but that, if no mutually satisfactory solution could be reached, the United States would submit to the Council a detailed request for authorization to suspend concessions (L/6694).  In a communication dated 25 January 1990, the Community stated that it would engage in the process for complying with the recommendations and would adopt the Community regulations in question in the context of the implementation of the results of the Uruguay Round (L/6636). At the meeting of the Council held on 16 May 1990, the Community stated that it would examine the changes which might be brought to its present regulations only when negotiations in the Uruguay Round on the ways and means, which would enable contracting parties to combat the circumvention of anti-dumping duties, had led to results which were satisfactory from a contractual point of view (C/M/241).