

GENERAL AGREEMENT ON

RESTRICTED

TARIFFS AND TRADE

L/6395

12 September 1988

Limited Distribution

COUNCIL

22 September 1988

KOREA - RESTRICTIONS ON IMPORTS OF BEEF - RECOURSE TO ARTICLE XXIII:2 BY NEW ZEALAND

Communication from New Zealand

A copy of the following communication from the Permanent Representative of New Zealand to the Permanent Representative of the Republic of Korea, dated 1 September 1988, has been received from the delegation of New Zealand with the request that it be circulated for the information of contracting parties.

My authorities have reviewed with great care the results of the bilateral consultations between New Zealand and the Republic of Korea, concerning Korean restrictions on beef, held under the provisions of Article XXIII:1 of the General Agreement in Seoul on 18 and 19 August. The New Zealand delegation was most grateful for the opportunity to meet in Seoul with Korean officials from a wide range of Ministries to discuss New Zealand's concerns about the Korean meat import régime and to receive a detailed explanation of the Korean measures affecting the importation of beef.

As you know, in these talks the New Zealand delegation set out the reasons why New Zealand considers the Korean restrictions, both past and present, are not in conformity with Korea's obligations under the General Agreement. We also put forward some general criteria which we believed would bring Korea gradually and progressively into conformity.

Your authorities were not in agreement with New Zealand on either the fundamental GATT issues or the general criteria that should apply to the future and were not in a position to discuss in any detail arrangements for future years' imports. They said they were not able to relax the restrictions and other measures made effective by the new organisation, the Livestock Products Marketing Organisation, which was recently given exclusive or special privileges to import beef.

We stated in the consultations that New Zealand did not consider this Korean response as adequate. We continue to believe that Korean restrictions nullify and impair benefits accruing to New Zealand and we

./.

therefore regret that your authorities were unable adequately to address the specific issues which New Zealand raised. It is our view that the consultations under Article XXIII:1 have not resulted in a satisfactory adjustment of the matter. Accordingly, at the next meeting of the Council on 22 September, New Zealand must renew its request for a panel under the provisions of Article XXIII:2.

This will be the third occasion Council will have considered New Zealand's request for a panel on this matter. You will recall that at the last Council meeting the Chairman drew Korea's attention to the widespread concern expressed by contracting parties at the lack of progress in settling this dispute (C/M/223, page 10). Paragraph 10 of the 1979 understanding regarding notification, consultation, dispute settlement states that "...if a contracting party invoking Article XXIII:2 requests the establishment of a panel to assist the contracting parties to deal with the matter, the CONTRACTING PARTIES would decide on its establishment in accordance with standing practice".

Finally, I would like to assure you that New Zealand does not wish to complicate procedural matters concerning the separate panels already established on exactly the same measures. As I stated at the July Council meeting, and it is recorded in the minutes of that meeting, New Zealand will accept whatever common procedures are acceptable to Korea and the United States and Australia respectively. The establishment by contracting parties of a legally separate panel for New Zealand will thus not in practice affect the smooth operation of the dispute settlement mechanism in this case. This approach is quite consistent with long-established practice in the GATT relating to multi-party complaints going back to 1951 and ending most recently in 1987 when Mexico, Canada and the European Community were joint complainants in an Article XXIII:2 action against the same United States measures (the Superfund case).

I hope therefore that when the matter comes up before contracting parties at the Council meeting on 22 September for the third occasion, it will be possible for Council to establish the panel with Korea's agreement. Your confirmation of this would be appreciated.