

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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EUROPEAN ECONOMIC COMMUNITY - RESTRICTIONS ON IMPORTS OF APPLES FROM CHILE

The following communication dated 13 July 1979 has been received from the Permanent Delegation of Chile, with the request that it be circulated to the contracting parties.

1. By Regulation (EEC) No. 687/79 of 5 April 1979, the Commission of the EEC suspended imports of apples from Chile from 5 May to 15 August 1979. The date of commencement of the prohibition was subsequently amended by Regulations (EEC) 797/79 and 1152/79 of 23 April and 12 June respectively in order to cover the quota assigned to Chile by the EEC.
2. This prohibition was preceded by consultations between the Commission and the Government of Chile, in which the former wanted Chile to apply "voluntary restraints" to its apple exports during the current marketing year. The consultations were initiated by the Commission on 9 March at a time when Chilean exporters had already shipped approximately a third of the contracts they had signed with EEC. Chile has refused retroactive application of restraints, since it does injury to the elementary principle of good faith which must govern international trade relations and which constitutes an essential part of the legal order of the international trade system contained in the General Agreement. This and other considerations of substance made it impossible to reach agreement.
3. In the view of the Government of Chile, the "safeguard measure" taken by the EEC contravenes the provisions of the General Agreement, inter alia, for the following reasons:
 - (a) it applies retroactively, as mentioned above;
 - (b) it is discriminatory, since it refers only to apples of Chilean origin;
 - (c) the product concerned is one in respect of which the EEC has bound its customs tariff within GATT.
4. As may be gathered from the considerations adduced in support of the action taken by the EEC (see Regulation 687/79), the true origin of the problem lies in the increased apple production in the Community countries, which in the present marketing year has been 1,500,000 tons higher than

in the preceding year, amounting to a total of 6,661,000 tons. It suffices to compare these figures with the additional 48,000 tons that the southern hemisphere countries had contracted to export for the current year (see difference between the columns "Shipments 1978" and "Estimates 1979" in the annexed table) to conclude that there has not been an increase in imports that could justify the measure in question.

As regards Chile's exports, it is contended paradoxically that they can cause "substantial disturbance" - although the contracts which had been signed for the current year are smaller than last year's shipments.

5. The above contentions are weakened still further if examined in the general context of bilateral trade. Indeed, as a result of liberalization of Chile's foreign trade, Community exports have increased considerably over the past three years and have in fact virtually doubled; this does not concord with the affirmation that a single export product of Chile is threatening to cause serious injury to the Communities.

6. For the reasons indicated, the Government of Chile has had recourse to Article XXIII and has held consultations with the EEC; it hopes that, by the date of the next Council, a mutually satisfactory agreement is reached, which will be reported on at that time.

EEC FIGURES ON IMPORTS OF APPLES FROM
SOUTHERN HEMISPHERE COUNTRIES

Country	Shipments 1978	Average last 3 years	Estimate 1979
	('000 tons)		
New Zealand	40	45.7	80
South Africa	131	130	130
Argentina	77	74.3	80
Australia	15	27.7	25
Chile	63.7	49.2	60.5
	326.7	326.9	375.5