

GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Subsidies and
Countervailing Measures

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REQUEST FOR CONCILIATION UNDER ARTICLE 13:1 OF THE AGREEMENT

The United States Complaint against the European Community and Brazil, Concerning the Granting of Subsidies on the Export and Production of Poultry

Communication from the United States Delegation

The following information and background material are provided by the United States Delegation with a view toward enabling the Committee to review the facts of the case as provided for under Article 17.1 and towards facilitating the conciliation process. The statement discusses the nature of the EC, French and Brazilian subsidies, the history of consultations on this dispute, and the reason why the US believes that EC, French and Brazilian subsidies on poultry have been granted in a manner inconsistent with Articles 8 and 10 of the Subsidies Code.

Consultations

The United States held consultations with the European Community under Article 12 of the Subsidies Code on 16 February 1982. At these consultations, the European Community alleged that they were subsidizing whole chickens into the Middle East in order to meet Brazilian competition. The United States held consultations with Brazil under Article 12 of the GATT Subsidies Code on 1 April 1983. Neither consultation was successful in resolving the US complaint. In the interim, US exports of whole chickens have fallen precipitously while EC and Brazilian exports have grown.

EC Export Subsidies for Poultry

EC export subsidies on poultrymeat (termed refunds) were first introduced by Article 9 of EC Regulation No. 123/67 of 13 June 1967, which established the common organization of the market in poultrymeat. On 25 October 1975, the EC introduced Regulation No. 2777/75, which consolidated and clarified all of the amendments to 123/67 that had been made since 1967. Article 9 remained the same in both documents. It permits the difference between Community and world prices for poultrymeat to be covered by an export refund.

According to EC Regulation No. 2779/75, the size of the refund depends upon some or all of the following factors: 1) the difference between prices for poultry in the EC, and on the world market; 2) the supply

of poultry meat products on the EC markets; 3) the need to avoid disturbances which might lead to prolonged imbalance between supply and demand in the Community market; 4) the economic aspect of the proposed exports; and 5) the difference between the prices within the EC and the world market for the quantity of feedgrain needed to produce 1 kg. of poultry meat.

Subsidies on exports of whole chickens and chicken parts, turkeys and turkey parts were introduced by the EC in 1967. Subsidies remained in effect for exports to all destinations until the summer of 1974. On August 15, 1974 export subsidies ceased to apply to chicken parts, turkeys and turkey parts and the export subsidies on whole chickens were scaled back by geographical area and applied only to non-EC Europe, the Middle East, and some countries bordering the Mediterranean. In September, 1974, export subsidies on whole chickens were extended to Cuba and the Canary Islands and in November, 1975 to Africa. Export subsidies were not re-extended to chicken parts until June 1, 1979. Subsidies on turkeys and turkey parts were re-introduced on January 21, 1980 and on that same date, the EC expanded all poultry subsidy programs by geographical area to all non-EC destinations, except the United States.

In the 15 years that subsidies have applied to exports of whole chickens the subsidy has been set at zero for only 9 months. Export subsidies on whole chickens reached a high of 27 ECU per 100 kgs during the May 1, 1979 to August 14, 1979 period. Since the beginning of 1982, the subsidy on whole chickens has been progressively increased from 13.50 ECU per 100 kgs. (\$132 per metric ton) on January 31, 1982 to 22.50 ECU per 100 kgs (\$220 per metric ton) on February 1, 1983.

French Subsidies Benefiting Poultry Processors

In addition to the EC refunds discussed above, French exports of whole chickens benefit from national subsidies. The United States believes that these subsidies are responsible for the spectacular growth in French exports of whole chickens over the past 8 years. Since 1975 France's share of EC exports of whole chicken has grown from 46 percent to 72 percent in 1982.

In 1980 98 percent of France's whole chicken exports came from three firms (Doux, Tilly, and Unaco) which are located in Brittany. Since 1978, the production of these firms has increased by at least 75 percent as new processing plants have been built. Ninety-seven percent of the production of these three firms is exported.

A number of programs are available to benefit poultry processors in Brittany. Several articles in poultry industry journals indicate that these plants would not receive subsidies if their production were not exported. The United States asked for information regarding French regional development programs which benefit poultry exports during consultations with the European Community, but no information

was provided. According to laws published in the French Official Journal the following is known about these programs.

Regional Development Grants

Brittany, where most of the poultry processing plants which export are located, qualifies as an area eligible to receive special grants for regional development from the French Government. The amount of subsidy is based upon employment created or extended. According to decree No. 76-325 of April 14, 1976, for programs of investment exceeding 10 million francs, the amount of subsidy may reach 25,000 francs per permanent new employee in the case of job creation and 22,000 francs in the case of job extension. Up to 25 percent of the investment amount may be subsidized under this program.

Agricultural Orientation Subsidy

Enterprises which stock, process, and distribute agricultural products and foods are eligible for capital grants under decree No. 64-243 of March 17, 1964. The grants may not exceed 20 percent of the value of the investment less deductible taxes.

Cooperation Subsidy

Investments for equipment for the preparation, stocking, processing, and distribution of food products are eligible for subsidies from the State in accordance with decree No. 72-197 of March 10, 1972. The subsidy varies from 10 to 30 percent of the investment. If, however, the investments are complimentary to those from FEOGA (European Agricultural Guarantee Fund), the investment subsidies are not subject to the minimal limits. Other agricultural investments are also eligible for subsidies under decree No. 72-197.

An interministerial circular of August 16, 1977 permits the above three subsidy programs to be combined so that as much as 50 percent of the investment for each poultry slaughtering plant may be subsidized.

Brazilian Subsidies for Poultry

Resolution No. 674

Pursuant to this resolution, poultry exporters were until early 1983 able, at a minimum, to borrow for 12 months 44 percent of the value of their previous year's net exports at interest rates subsidized to levels slightly more than half of the rate charged by the Bank of Brazil. Currently, the United States understands that such exporters can negotiate for subsidized credits in amounts equal to 22 percent of their previous year's exports over 12 months at an

interest rate approximately 32 percentage points below what it would cost them to borrow from the Bank of Brazil. Adjusting this for domestic inflation and currency devaluations of approximately 100 percent per year, we estimate the real subsidy to be approximately 5 percent of the annual sales of a beneficiary firm. This may indeed be a very conservative estimate of the ad valorem equivalent of the subsidy whose calculation depends chiefly upon what rate of interest is otherwise available to poultry exporters in the absence of financing under Resolution No. 674. In our calculations we have used the Bank of Brazil rate. If this is not available to poultry exporters, the rate could be 50 percentage points or more higher.

Exemption From Income Taxes

Decree Law 1721, which extends Decree Law 1158 of December 3, 1979 exempts from tax the profits on export sales. This amount is then subtracted from total profits, thus reducing the amount of taxable income. Poultry became a product eligible for this program on June 12, 1980.

Rebates of Indirect Taxes

Beginning in 1975, Brazil accorded export subsidies in the form of IPI (Industrial Products Tax) and ICM (Merchandise Circulation Tax) rebates. These programs provided not only for the rebate of an indirect tax upon the export of poultry, but also permitted the exporter to receive a tax credit equal to the amount of the rebate. Until January 1979, these were administered as two separate programs. Between January 1978 and December 1979, the two programs were combined and the total rebate, 15 percent, was equal to the sum of the two prior rebates. The subsidization of poultry exports under this program ended in December, 1979.

Rural Credit Loans

Loans under this program apply to all agricultural sectors. The loan covers not only operating costs, but also the cost of inputs. The amount of the loan depends upon the size of the production operations. A small producer receives 100 percent of his operating and input costs, a medium-sized producer receives 70 percent and a large producer 50 percent. We understand that most poultry operations

would fall under the medium-sized category. The interest rate charged is generally 45 percent, although in the Northeast sector it is even lower, and the loan must be repaid within 6 months. In early 1983, the 45 percent interest rate was raised to 65 percent.

Subsidized Corn

From June 1, 1982-December 31, 1982, Brazilian poultry producers were able to receive subsidized corn from the Company for Financing Production (CFP), a government entity under the Ministry of Agriculture. To be eligible for the subsidized corn, the producer must first have documentation showing that he exported poultry and present certification showing that he had paid not less than the minimum domestic price for a quantity of corn he was required to purchase from domestic sources. For every 1.5 kg. of corn an eligible poultry producer bought at the domestic price, he was able to purchase 0.35 kgs. of corn from CFP at a price of 1,000 cruzeiros per ton. The domestic Brazilian price of corn was 18,933 cruzeiros per ton the week of August 15, 1982.

Subsidized Financing for Exports to Iraq

Last year, Brazil provided subsidized financing (i.e., 400 days at 7 and 1/2 percent interest) for a 132,000-ton poultry sales contract to Iraq.

The United States has asked for information to permit an ad valorem calculation of the various Brazilian subsidies, but Brazil has not been able to provide this information.

U.S. Case Under the Subsidies Code:

The United States believes that EC and Brazilian export subsidies on poultry are granted in a manner inconsistent with Articles 8 and 10 of the Code, as well as Article XVI of the GATT. The United States contends that EC and Brazilian exports of whole chickens have increased as a result of these subsidies and that absent these subsidies U.S. exports of whole chickens would be substantially larger. The United States further contends that the subsidies have resulted in the EC and Brazil obtaining more than an equitable share of world trade in whole chickens, displacement and pre-emption of U.S. exports and materially undercut U.S. prices. In addition the United States believes that extension of EC subsidies to exports of poultry parts, turkeys and turkey parts may result in future loss of U.S. exports markets for these products.

In the whole chicken market there are four major exporters: the European Community, Brazil, the United States and Hungary. The four account for 95 percent of world trade in whole chickens. From 1968 to 1975 the world market for whole chickens remained relatively static growing by only 100,000 tons during the 8 year period. Starting in 1975 the Middle East market for whole chickens began to expand rapidly and in the next six years, 1976 to 1981, the world market for whole chickens grew by 800,000 tons. The United States participated in this growth but not to the extent that either of its subsidizing competitors, Brazil and the European

Community, did. In absolute terms U.S. exports during the six year period grew by only 140,000 tons while EC exports expanded by 328,000 tons and Brazilian exports by about 290,000 tons. The United States believes that were it not for the subsidized competition from Brazil and the European Community the growth in U.S. exports during this period would have been significantly greater. The United States holds this belief because U.S. domestic prices for whole chickens are lower than EC and Brazilian domestic prices and U.S. feed costs are significantly lower than either Brazil's or the European Community's.

The United States considers that the EC and Brazil, who have obtained 70 percent of the world market for whole chickens through the use export subsidies, have more than an equitable share of world trade.

Starting in 1982, the world market for whole chickens began to contract. Because of aggressive subsidization by both Brazil and the European Community, the United States bore the burden of market adjustment. U.S. exports fell by 100,000 tons. The United States which previously accounted for only 15 percent of world trade in whole chickens bore 80 percent of the world market adjustment in 1982. Displacement of U.S. exports occurred in Egypt and Iraq.

In the period 1979-81 the United States supplied 56 percent of Egypt's whole chicken imports, yet the United States accounted for only 0.2 percent of that important market in 1982. Brazil expanded its share of the Egyptian market from 34 percent to 91 percent in this same period. The EC share declined slightly from 11 percent in 1979-81 to 9 percent in 1982. On the basis of tender awards totaling 62,000 tons of whole chickens in the first 5 months of 1983, France has 24 percent of the Egyptian market and Brazil 76 percent. The United States has made no sales of whole broilers to Egypt yet in 1983.

The market for whole chickens in Iraq has since 1973 been trending steadily upward and reached 123,000 tons in 1982. In the 1979-81 period the U.S. share was 29 percent; Brazil's share was 65 percent and the EC share, 6 percent. In 1982, Brazil supplied 94 percent of Iraq's imports of whole chickens and the EC, 6 percent. No U.S. sales were made to Iraq in 1982 or thus far in 1983. In late 1982, Brazil won an Iraqi government tender to supply 132,000 tons of whole chickens for delivery over the next 12 months.

The United States believes that the EC and Brazil were able to increase their shares of world trade and displace U.S. exports in Egypt and Iraq because of a significant increase in the incidence of subsidization. EC export restitutions almost doubled from early 1982 to early 1983. In the case of Brazil, the availability of subsidized corn for exporters and low interest financing for sales to Iraq in addition to other subsidies significantly enhanced Brazil's competitive position vis-a-vis the United States.

EC and Brazilian subsidies have resulted in prices which are materially below those offered by the United States. The following tenders for Egypt which compare U.S., French, and Brazilian bids demonstrate that Brazilian and French exporters have substantially undercut U.S. offer prices.

1. 8/31/82 Egyptian tender #6 for 5,000 tons of frozen chickens.

Bids (\$/MT):	U.S.	\$1252 C&F
	Brazil	\$888-1,000 C&F

Note: Tender canceled because tenderers did not submit bid bonds.

2. 2/2/83 Egyptian tender for 5,000 tons of frozen chickens.

Bids:	Turkey	\$1259 C&F
	Brazil	* \$ 912-958 C&F
	France	\$1017 C&F
	U.S.	\$1355 C&F

3. March, 1983 Egyptian tender No. 21 for 5,000 tons of frozen chickens.

Bids (\$ MT)	Brazil	* \$912-970 C&F
	Turkey	\$1250 C&F
	France	\$ 940-\$1,017 C&F

4. April, 1983 Egyptian tender No. 25 for 5,000 tons of frozen chickens.

Bids (\$MT)	Brazil	\$ 910 C&F
	France	* \$ 880-938 C&F
	Poland	\$ 865 C&F

Note: Bid awarded to France because Poland did not submit performance bond.

5. 4/18/83 Egyptian tender No. 27 for 17,000 tons of frozen chickens.

Bids (\$ MT)	U.S.	\$1345 C&F
	Brazil	\$ 905 C&F
	France	\$ 905-918 C&F

Note: 10,000 tons awarded to France and 7,000 tons awarded to Brazil.

6. 5/23/83 Egyptian tender No. 32 for 30,000 tons of frozen chickens.

Bids (\$ MT)	France	\$ 960 C&F
	Brazil	* \$ 905-1030 C&F

* Tender awarded.

In the fall of 1982, Iraq issued a tender for 132,000 tons of whole chickens to be delivered over a 12-month period. The Brazilian National Union of Broiler Exporters (UNGF) won the tender with a bid of \$1,136 per metric ton C&F Baghdad. The U.S. bid was \$1,473 per metric ton C&F Baghdad.

The United States is the world's largest exporter of chicken parts principally because the United States does not face subsidized competition in this product. With the reintroduction of EC subsidies on chicken parts EC exports of chicken parts, while small, have begun to trend upward. Additionally, the United States understands that Brazil is beginning to export chicken parts with the assistance of export subsidies. The U.S. is fearful that its traditional markets which have been developed without the use of export subsidies will be harmed by the aggressive Brazilian and EC subsidy practices that are amply demonstrated in the whole chicken market. Similarly, the extension of EC export subsidies to turkeys and turkey parts threatens serious injury to U.S. exports of these products.

The United States asks that the Chairman of the Subsidies Code Committee use his good offices to facilitate a solution to this matter so that world trade in poultry can be based on factors other than the degree to which countries subsidize their exports.

Exports of Whole Chickens and Fowl

(000 MT)

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982
Brazil								4	20	33	51	82	170	292	302
Hungary	27	25	36	43	38	37	48	59	72	83	85	90	95	101	130
U.S.	NA	11	12	11	11	8	10	13	57	61	58	85	139	152	48
EC 1/	18	19	50	56	44	73	106	105	140	200	186	248	316	433	408
Denmark 2/	38	41	44	49	50	48									
Other 3/	1	4	4	7	5	14	26	26	19	53	37	46	56	48	46
World	NA	100	146	166	148	180	190	207	308	430	505	551	776	1026	934

Percent Share of World Trade

Brazil	NA							2	7	8	10	15	22	28	32
Hungary	NA	25	25	26	26	21	25	29	23	19	17	16	12	10	14
U.S.	NA	11	8	7	7	4	5	6	19	14	11	15	18	15	5
EC 1/	NA	19	34	34	30	41	56	51	45	47	37	45	41	42	44
Denmark 2/	NA	41	30	29	34	27									
Other 3/	NA	4	3	4	3	8	14	13	6	12	7	8	7	5	5

Exports of Chicken and Fowl Parts

(000 MT)

U.S.	NA	28	31	35	34	36	43	54	82	92	104	112	142	192	188
EC 1/	1	2	3	5	6	9	17	12	13	12	12	13	16	19	23
World 4/	NA	30	34	40	40	45	60	66	95	104	116	125	158	211	211

Percent Share of World Trade

U.S.	NA	93	91	88	85	80	72	82	86	88	90	90	90	91	89
EC 1/	NA	7	9	13	15	20	28	18	14	12	10	10	10	9	11

Exports of Whole Chickens and Fowl and Parts

(000 MT)

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982
Brazil								4	20	33	51	82	170	292	302
Hungary	27	25	36	43	38	37	48	59	72	83	85	90	95	101	130
U.S.	40	39	43	46	45	44	53	67	139	153	162	197	281	344	237
EC 1/	19	21	53	61	50	82	123	117	153	212	198	261	332	452	431
Denmark 2/	38	41	44	49	50	48									
Other 3/	1	4	4	7	5	14	26	26	19	53	37	46	56	48	46
World	125	130	180	206	188	225	250	273	403	534	533	676	934	1237	1045

Percent of World Trade

Brazil								1	5	6	10	12	18	24	26
Hungary	22	19	20	21	20	16	19	22	18	16	16	13	10	8	11
U.S.	32	30	24	22	24	20	21	25	34	29	30	29	30	28	21
EC 1/	15	16	29	30	27	36	49	43	38	40	37	39	36	37	38
Denmark 2/	30	32	24	24	26	21									
Other 3/	1	3	2	3	3	6	10	10	5	10	7	7	6	4	4

1/ Does not include trade among EC states; Denmark is not included 1968 - 1973.

2/ Denmark for 1968-1973.

3/ Other includes data for Yugoslavia, South Africa, Hong Kong, Israel and Australia.

4/ Does not include Thailand which is the only other exporter of any significance.

Major Suppliers of Whole Chickens
to Egypt and Iraq
(metric tons)

	EGYPT														
	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982
Brazil												3,170	6,350	45,016	34,165
U.S.										5,579	2,476	10,707	25,934	52,702	59
EC 1/			729	153	5,036		403	1,014	83	1,080	2,040	1,304	10,146	5,546	3,487
Denmark 2/	10	275	999	1,283	725										
Hungary															

	IRAQ															
Brazil											2,200	17,020	25,505	31,848	70,639	115,315
U.S.										28,129	14,318		25,459	31,933		
EC						152	6,011	10,730	1,351				2,402	9,689	7,436	
Denmark 2/																
Hungary																

1/ EC data does not include Denmark trade for 1968-1973.

2/ Denmark data for 1968-1973.