

INDIA - IMPORT RESTRICTIONS ON ALMONDS

Recourse to Article XXIII:2 by the United States

The following communication, dated 2 July 1987, has been received from the Permanent Representative of the United States, with the request that it be circulated to contracting parties and included as an item on the agenda of the Council meeting scheduled for 15 July 1987.

As noted by the representative of the Government of the United States at the 15 June meeting of the GATT Council, on 15 May the Government of the United States requested consultations with the Government of India, under Article XXIII:1 of the General Agreement and under Article 4.2 of the Agreement on Import Licensing Procedures, concerning India's licensing régime as it applies to imports of almonds. These consultations were held on 19 June but have not resulted in a satisfactory resolution of the matter.

The Government of the United States believes that benefits accruing to it under the General Agreement, as well as under the Agreement on Import Licensing Procedures, are being nullified or impaired by India's practices affecting the imports of almonds. Specifically, the Government of the United States believes that restrictions on imports, made effective through import licenses applied by the Government of India on imports of almonds, are impermissible under Article XI of the General Agreement. The Government of the United States believes that these restrictions are not justified under Article XVIII, section B, as claimed by the Government of India, because India has not followed the requirements incumbent on a contracting party imposing restrictions under that section.

Currently, imports of almonds into India are restricted to 25 per cent of the value of an importer's best year between Indian fiscal years 1972-73 and 1985-86. The minimum license value granted is Rs. 5,000, an amount too small to permit economically viable commercial shipments. This has sharply restricted both the quantity and type of almond imports from the United States to India and compares unfavourably with the policy of "open general licensing" that was maintained by India up to April 1981.

./.

In addition, despite steady increases in the Government of India's external reserves since April 1981, the restrictions are now more onerous than when this policy was first introduced: In Indian fiscal year 1981-82 imports were restricted to 50 per cent of an importer's best year (based on Indian fiscal years 1978-79 to 1980-81), with a minimum license value of Rs. 10,000.

These import restrictions on almonds have been the subject of continued discussions between the two governments since shortly after their imposition in April 1981. Senior officials from the two governments have raised the issue of India's import restrictions on almonds nearly 20 times. Throughout this six-year period, the Government of the United States hoped to be able to resolve the matter on a bilateral basis without resort to the dispute settlement procedures of the GATT. This has not proved possible.

The consultations that took place on 19 June afforded a thorough review of the two governments' positions as they relate to the relevant Articles of the General Agreement and the Agreement on Import Licensing Procedures, but they did not result in satisfactory resolution of the matter.

The Government of the United States therefore requests that the GATT Council at its 15 July meeting establish a panel under Article XXIII:2 of the General Agreement to examine the matter and to make such findings or recommendations as may be appropriate.