
Committee on Import Licensing

COMMUNICATION FROM THE UNITED STATES

The following communication, dated 10 August 1987, has been received by the Chairman from the delegation of the United States.

On 15 May 1987, the United States requested consultations with the Government of India pursuant to Article 4.2 of the Agreement on Import Licensing Procedures regarding India's licensing régime with respect to imports of almonds. This request followed six years of bilateral consultations undertaken to resolve our concerns. In the course of these six years, my Government raised the issue at seven meetings of the Code Committee, starting as early as 1982 and continuing through the March 1986 Committee meeting, in order to seek information and clarification of India's practices and their conformity with the Agreement's obligations.

As a result of the United States request last May, consultations pursuant to Article 4.2 of the Agreement and Article XXIII:1 of the General Agreement were held in Geneva on 19 June. Despite a thorough discussion of the issues, a satisfactory resolution does not appear to be likely. Therefore my Government requests that the Committee establish a panel pursuant to Article 4.2 of the Agreement to investigate the consistency with the Agreement of India's import licensing régime as applied to almond imports.

The United States hereby requests that a special meeting of the Code Committee be scheduled for 15 September, in order to establish the panel.

I have attached a background paper for distribution to members of the Committee as they consider this request.

We look forward to your prompt reply regarding our request.

Background Paper for the Committee on Import Licensing Concerning
the Request by the United States of America for the Establishment
of a Panel Pursuant to Article 4.2 of the Agreement Regarding
India's Licensing Régime with Respect to Imports of Almonds

As noted by the representative of the Government of the United States at the 16-17 June and 15 July meetings of the GATT Council, on 15 May the Government of the United States requested consultations with the Government of India, pursuant to Article 4.2 of the Agreement on Import Licensing Procedures and Article XXIII:1 of the General Agreement, 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 Agreement on Import Licensing Procedures, as well as under the General Agreement, 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 inconsistent with the principles and procedures set out in Articles 1 and 3 of the Agreement on Import Licensing Procedures.

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 or Rs 5,000, whichever is greater. Approximately 50 per cent of license holders are restricted to the Rs 5,000 limit, an amount too small to permit economically viable commercial shipments. These limits have sharply restricted both the quantity and type of almond imports from the United States to India and compare unfavourably with the policy of "open general licensing" that was maintained by India up to April 1981. License transfer practices in the market exacerbate the trade-restrictive effect of the licensing régime. Finally, the licensing régime is based upon previous performance, so no opportunity exists for new importers to enter the market.

In addition, 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), or Rs 10,000, whichever was higher.

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 twenty times, including seven times before the Committee on Import Licensing. 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 Agreement or the General Agreement. This has not proved possible.

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

The Government of the United States therefore requests that a special meeting of the Committee be held on 15 September to establish a panel pursuant to Article 4.2 of the Agreement on Import Licensing Procedures to examine the matter and to make such findings or recommendations as may be appropriate.