

COUNCIL

Original: English

UNITED STATES - IMPORT PROHIBITION ON ICE CREAM FROM CANADA

Recourse to Article XXIII:1 by Canada

Communication from Canada

The following communication, dated 8 December 1988, has been received from the Permanent Mission of Canada with the request that it be circulated to contracting parties and that the matter be inscribed on the agenda of the Council meeting to be held on 20 December 1988.

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Canada wishes to refer to the CONTRACTING PARTIES, pursuant to Article XXIII:1 of the General Agreement, the matter of the prohibition maintained by the United States on the importation of ice cream from Canada.

The United States established a quota on imports of ice cream on December 31, 1970 under authority of the Agricultural Adjustment Act. The quota level was set at 431,330 gallons and was allocated to five countries. No provision was made for new suppliers and no allocation was provided to Canada. Both the level and the country allocation of the quota have remained unchanged since it was established.

The Government of Canada considers that the circumstances which prevailed at the time the quota on imports of ice cream was established have changed dramatically such as no longer to require the restriction. To Canada's knowledge, the quota was fully utilized only once and the utilization rate has now dropped to some 2 per cent. It is therefore Canada's view that the United States has failed to abide by the conditions of the waiver granted to it by CONTRACTING PARTIES in 1955 in maintaining the quota, as well as the assurances it provided to contracting parties at the time the waiver was granted.

The Government of Canada further considers that USA obligations under Article XIII of the General Agreement are not affected by the 1955 waiver. The U.S. quota allocation prohibits imports of ice cream from Canada and is not in conformity with Article XIII.

The United States discriminatory prohibition on imports of ice cream from Canada nullifies and impairs benefits accruing to Canada under the General Agreement. The measure was the subject of formal consultations

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between representatives of both governments under Article XXII of the General Agreement on October 7, 1988 as well as of written representations by Canada but the matter has not been satisfactorily resolved.

Accordingly, Canada wishes to inform the contracting parties at the December 20, 1988 meeting of the GATT Council that it is requesting Article XXIII.1 consultations with the United States on this matter.