

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

DS21/1

25 January 1991

Limited Distribution

COUNCIL

Original: Spanish

UNITED STATES - RESTRICTIONS ON IMPORTS OF TUNA

Request for the Establishment of a Panel under Article XXIII:2 by Mexico

The following communication, dated 22 January 1991, has been received from the Permanent Delegation of Mexico to the GATT with the request that the matter be inscribed on the agenda of the Council meeting on 6 February 1991.

The United States Government decided to prohibit all imports of yellowfin tuna and yellowfin tuna products from Mexico as from 10 October 1990. This action resulted from a California Northern District Court order, published in the Federal Register of 18 October 1990, implementing the provisions of the United States Marine Mammal Protection Act.

Subsequently, in December 1990, the United States adopted the Dolphin Protection Consumer Information Act. Under the Act, the label "Dolphin Safe" may be used only for tuna and tuna products not fished in the eastern tropical Pacific Ocean, or which meet a number of additional requirements if they do contain tuna fished in that region.

From Mexico's standpoint, the analysis of these two Acts indicates, inter alia, that:

- (a) the Marine Mammal Protection Act is contrary to Articles XI, XIII and III of the General Agreement;
- (b) the Dolphin Protection Consumer Information Act is incompatible with Article IX (marks of origin) of the General Agreement;
- (c) this is a prima facie case of nullification or impairment under Article XXIII of the General Agreement; and
- (d) neither Act is justified under the GATT.

./.

Consequently, and since the time-limit for the holding of consultations¹ has expired without a mutually satisfactory adjustment having been effected, the Government of Mexico requests the prompt establishment of a dispute-settlement panel in accordance with the Improvements to the GATT Dispute-Settlement Rules and Procedures agreed upon at the Mid-Term Review Meeting.

It should be pointed out that, notwithstanding this request for the establishment of a dispute-settlement panel and without prejudice to the future work of such panel, the Government of Mexico is fully prepared to conduct whatever further consultations may be required to reach a mutually satisfactory solution of this matter with the urgency it deserves.

¹Notified to the Council at its meeting on 7 November 1990 (C/M/246)