

GENERAL AGREEMENT ON

RESTRICTED

TARIFFS AND TRADE

DS34/1

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NEGOTIATING RIGHTS OF ARGENTINA IN CONNECTION WITH THE
RENEGOTIATION OF OILSEED CONCESSIONS BY
THE EUROPEAN COMMUNITIES

Recourse to Article XXIII:2

Communication from Argentina

The following communication, dated 16 September 1992, has been received from the Permanent Mission of Argentina, with the request that it be circulated to contracting parties and inscribed on the Agenda of the Council meeting on 29 September 1992.

On 19 June 1992, the GATT Council authorized the EEC to enter into negotiations, under paragraph 4 of Article XXVIII, for the modification of the tariff concessions in its Schedule LXXX-EC with respect to tariff items CN 1201.00.90, 1205.00.90, 1206.00.90, 2304.00.00, 2306.30.00 and 2306.40.00.

On that occasion the Argentine delegation drew attention to its status as a principal supplier of the EEC for certain oilseed exports, in accordance with Article XXVIII:1 (Annex I to the General Agreement). It asked the Council, pursuant to Note 5 to the above-mentioned paragraph, to take the necessary decision for this right to be recognized by the CONTRACTING PARTIES with respect to two of the tariff items in question.

After the Council authorized the EEC to renegotiate, under Article XXVIII, the oilseed concessions listed above in paragraph 1, Argentina stated that it would submit a written communication to the EEC Commission on the subject.

In the consultations conducted so far with the EEC Commission in connection with the above-mentioned authorization for the modification of concessions, the EEC recognized Argentina's status as a principal supplier only for tariff item 2306.30.00, sunflowerseed cake, for which Argentina has had the biggest share of exports to the Community market during the three-year period 1989/1991.

Notwithstanding Argentina's written communication and the talks conducted so that the EEC should recognize its principal supplying interest for soya beans (1201.00.90) and soya cake (2304.00.00), on the grounds that exports of these products to the Community market constitute a major part of the country's total exports, as mentioned in Note 5 to Article XXVIII, paragraph 1, the EEC has not given a reply to that effect.

Taking into account that exports to the EEC of each of these products, taken individually, have amounted to 4.30 per cent and 4.65 per cent of total Argentine exports for the period 1989/1991, and 7.09 per cent and 5.74 per cent for the year 1991, respectively, Argentina considers that the conditions established in the above-mentioned Note 5 for it to be considered as having a principal supplying interest are satisfied.

Furthermore, although it is not a text that has been adopted by the CONTRACTING PARTIES, Argentina also satisfies the conditions of the understanding negotiated in the Uruguay Round with regard to Article XXVIII with a view to adding a new principal supplier's right, interpreting Note 5 to paragraph 1 of the article in question, in the sense that Argentina is the contracting party which has the highest ratio of exports affected by the above concessions to the EEC in relation to its total exports in the period 1989/1991.

It should be stressed that the Uruguay Round understanding on Article XXVIII has been mentioned by the EEC to justify the calculation of compensation in the current discussions for the renegotiation of oilseed concessions.

In view of the forgoing, the Argentine Republic requests the establishment of a panel under Article XXIII:2 to examine the matter and make the relevant recommendation to the CONTRACTING PARTIES under the procedure for cases of urgency (section F(f)5) provided in the Improvements to the GATT Dispute Settlement Rules and Procedures agreed at the Montreal Mid-Term Ministerial Meeting.

We request that the panel be established with the following terms of reference:

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by Argentina in document DS34/1 and to make such findings as will assist the CONTRACTING PARTIES in making a determination regarding Argentina's status as a contracting party with a principal supplying interest according to paragraph 1 of Article XXVIII."

TABLE I

Argentine Exports of Oilseed Products to the EEC

	1989		1990		1991		1989/91	
	Tons	ECUs	Tons	ECUs	Tons	ECUs	Tons	ECUs
A. Total Argentine exports		8,688,000		9,700,000		9,660,000		9,683,000
B. Total oilseed exports to the EEC	3,124,434	644,857	6,344,489	1,026,912	8,277,146	1,409,432	5,915,356	1,027,068
(i) 12.01.00.90 (soya beans)	464,470	127,787	2,337,642	437,590	3,381,279	684,573	2,061,130	416,650
(ii) 12.06.00.90 (sunflower seed)	0	0	192,173	39,514	143,080	30,208	111,751	23,241
(iii) 23.04.00.00 (soya cake)	1,655,126	378,843	2,558,446	418,558	3,334,446	554,395	2,516,006	450,599
(iv) 23.06.30.00 (sunflowerseed cake)	1,004,838	138,227	1,256,228	131,250	1,418,341	140,256	1,226,469	136,578

Figures in thousands of ECUs

Source: EUROSTAT.

TABLE II

Argentine Exports of Oilseed Products to the EEC
as a Percentage of Total Argentine Exports

	1989		1990		1991		1989/91	
	Tons	ECUs	Tons	ECUs	Tons	ECUs	Tons	ECUs
A. Total Argentine exports		8,688,000		9,700,000		9,660,000		9,683,000
B. Oilseed exports to the EEC/ total Argentine exports		7.42		10.58		14.59		10.60
(i) 12.01.00.90 (soya beans)		1.47		4.51		7.09		4.30
(ii) 12.06.00.90 (sunflower seed)		0.00		0.41		0.31		0.24
(iii) 23.04.00.00 (soya cake)		4.36		4.32		5.74		4.65
(iv) 23.06.30.00 (sunflowerseed cake)		1.59		1.35		1.45		1.41

Sources: EUROSTAT for oilseed exports to the EEC.
SICE (Department of Industry and Trade) for total Argentine exports.