

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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ARGENTINA - COUNTERVAILING DUTIES ON DAIRY PRODUCTS FROM THE EUROPEAN COMMUNITY

Request for Consultations under Article XXIII:1 by the European Community

The following communication, dated 16 November 1992, sent by the Permanent Delegation of the Commission of the European Communities to the Permanent Mission of the Republic of Argentina in Geneva, is circulated in accordance with paragraph C.3 of the CONTRACTING PARTIES's 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/62).

According to the Resolution No 1203/92, published in the Official Bulletin of 26 October 1992, Argentina has imposed countervailing duties on imports of certain dairy products originating in the European Community.

The Resolution contains no evidence of material injury being caused or threatened to the domestic industry by the imports in question.

Furthermore, the Resolution refers in general terms without any factual evidence to injury to milk producers in Argentina. The European Community would like to point out that the 1959 report "Anti-dumping and countervailing duties" adopted by CONTRACTING PARTIES (BISD 8S/150, paragraph 18) states that judgements of material injury should be related to national output of a like commodity. In this case countervailing duties have been imposed on imports of processed dairy products (milk powder, soft cheese, semi-hard cheese and blue cheese), which are not a like commodity (or like product) to milk. Therefore measures against the processed dairy products cannot be justified by reference to injury to the producers of milk, since these producers do not constitute the appropriate domestic industry for the purpose of Article VI.6(a) of the General Agreement. Similarly, since the milk producers do not produce a like commodity to the processed dairy products, they have no standing to complain.

Irrespective of the question of like commodity or product, the Resolution does not provide any factual evidence of material injury, nor any evidence of a causal link between the imports involved and any injury that may be suffered.

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In view of the above arguments, the European Community considers that Argentina has failed to carry out its obligations under Article VI of the General Agreement.

Therefore, the European Community requests to enter into consultations with Argentina under Article XXIII:1 of the General Agreement, in accordance with the 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/62).