

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED
DS45/2
28 June 1994
Limited Distribution

(94-1354)

Original: Spanish

EEC - COUNTERVAILING CHARGES ON LEMONS

Communication from Argentina

The following communication, dated 20 June 1994, has been received from the Permanent Mission of Argentina with the request that it be circulated to contracting parties.

At the GATT Council meeting on 22 September 1993, Argentina stated (DS45/1 and C/M/266) that it had requested consultations with the EEC, which the latter had accepted, under Article XXII:1 of the General Agreement in connection with the application to our country's lemon exports of Regulations 1035/72, 1453/93 and subsequent regulations. These consultations were initiated because Argentina considered that the rules on reference prices and countervailing charges included among the provisions of those regulations were inconsistent with the Community's GATT obligations.

The consultation was held on 24 September 1993. During it, our delegation explained the injury incurred by Argentine exporters and told the EEC that it considered the system of reference prices and countervailing charges to be inconsistent with Articles XI, XIII and X, among others, of the General Agreement.

The representatives of the Commission were given a detailed questionnaire which included questions on the method of calculation of the countervailing charges applied to lemons, the workings of Regulation 1035/72 in general, and the EEC's intention as to the maintenance and future application of the system of reference prices and countervailing charges.

The outcome of this consultation was unsatisfactory, as the Community authorities never replied to the questionnaire.

In subsequent informal talks, various EEC representatives said that there had been no reply to the above-mentioned consultation because the problem arising from the application of countervailing charges to lemons could be resolved in the framework of the recommendations of a panel (the panel set up at the request of Chile under the title "EEC - Restrictions on Apple Imports"), and the possible decisions the EEC Council would have to adopt as a result of the panel, which was seeking to resolve a similar issue.

The Community's argument was based on the fact that the problems raised in both cases stemmed from the same legal instruments and it was therefore logical to expect that if satisfactory solutions could be found for apples, these could be extended to lemons, as the EEC representatives asserted.

Accordingly, our Government decided to await the changes that might be made in the system provided for in Regulation 1035/72 as a result of the panel outcome and the subsequent bilateral negotiations initiated with Chile in that framework.

Regulation (EC) No. 1165/94 of 17 May 1994 (published in Official Journal No. L130/94 of 24 May 1994), which contains the bilateral solution negotiated with Chile for apples and pears, did indeed modify some of the provisions of Regulation 1035/72, but these provisions only concerned those two products. Consequently, the system applicable to lemons remains unchanged, and maintains the regulatory framework that gave rise to the application of the countervailing charges that affected Argentine exports during 1993.

In view of the foregoing, on 20 June 1994 Argentina formally requested the Commission of the EEC to hold consultations under Article XXIII:1.

Furthermore, considering the threat of application of countervailing charges overshadowing lemons that could be exported during the remainder of the 1994 marketing year, the request for consultations was made under the terms of paragraph C.4 of the CONTRACTING PARTIES' Decision of 12 April 1989 entitled "Improvements to the GATT Dispute Settlement Rules and Procedures" (BISD 36S/61).