

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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AUSTRALIA - IMPORT RESTRICTIONS ON SALMON

Request for Consultations under Article XXII:1 by Canada

The following communication, dated 28 January 1994, has been received by the Permanent Mission of Canada and is circulated in accordance with paragraph C.3 of the CONTRACTING PARTIES' 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/62).

On January 24, 1994, the Government of Canada requested bilateral consultations with the Government of Australia under Article XXII:1 of the General Agreement on Tariffs and Trade. The Canadian Government is concerned that certain Australian measures restricting the importation of unprocessed salmonids are not consistent with Australia's obligations under the General Agreement. Canada has made sincere and multiple efforts, since 1975, to resolve this issue bilaterally with the Government of Australia. These efforts have not met with success.

At issue is the effect of Australian Quarantine Proclamation 86A of February 21, 1975. The Proclamation prohibits the importation into Australia of flesh, live fish, semen and ova of salmonids (salmon and trout) unless such imports have been sufficiently processed, as determined by the Australian Director of Quarantine, to render them negative for disease agents. Consequently, Canadian frozen salmon is denied access to the Australian market.

Canada notes that Article XI:1 of the General Agreement provides that contracting parties shall not prohibit the importation of, nor impose restrictions upon, the importation of any product from any other contracting party. As the Quarantine Proclamation denies Canadian frozen salmon access to the Australian market, Canada believes that the measure is not consistent with Australia's obligations under Article XI:1 of the General Agreement.

It appears that Australia permits the importation of frozen salmon from some other countries. As frozen salmon from such other countries is permitted access to the Australian market, while similar access is denied to Canadian frozen salmon, Canada believes that the measure is not consistent with Australia's MFN obligations under the General Agreement.

It is Canada's position that the Australian import prohibition cannot be justified under any GATT provision.

Therefore, it is Canada's position that the Australian measure at issue has nullified or impaired benefits accruing to Canada pursuant to Article XXIII:1(a) of the General Agreement.

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Moreover, Canada notes that the Australian tariff on salmon is bound. At the time of the binding Canada could not reasonably foresee imposition of the import prohibition by Australia. Therefore, it is Canada's position that the Australian measure at issue has nullified or impaired benefits accruing to Canada pursuant to Article XXIII:1(b) of the General Agreement.

In conclusion, the Canadian Government requested consultations with the appropriate Australian authorities in a timely fashion to discuss this matter with the intention of reaching a mutually satisfactory result and for the purposes of satisfying the requirements of Article XXII:1.