

SLOVAKIA - SAFEGUARD MEASURE ON IMPORTS OF SUGAR

Request for Consultations by Poland

The following communication, dated 11 July 2001, from the Permanent Mission of Poland to the Permanent Mission of the Slovak Republic and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Upon instructions from my authorities and pursuant to:

- Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU);
- Article XXIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994); and
- Article 14 of the Agreement on Safeguards (SG Agreement)

I hereby wish to convey the request of the Government of Poland for consultations with Slovakia, with respect to the quantitative restrictions imposed by Slovakia on imports of sugar (tariff heading 1701). The imposition of the measure in question was notified to the Committee on Safeguards and circulated in document G/SG/N/10/SVK/1.

Poland considers that the above-mentioned safeguard measure has been imposed in a manner inconsistent with the obligations of Slovakia under the SG Agreement. It appears that the Slovak authorities acted inconsistently with the following provisions covered in the Agreement:

1. Paragraph 1 of Article 3

During the investigation there were no public hearings or other appropriate means whereby interested parties could present their evidence or their views. Nor was any opportunity given for interested parties to respond to the presentations and statements of other parties as no such documents were revealed to them.

2. Paragraph 2(b) of Article 4

No document presented, including notifications to the SG Committee under Article 12, contained analyses on causal link between increased imports and serious injury to the domestic industry or factors other than imports which might have caused injury (including imports from the Czech Republic which was excluded from the measure).

3. Paragraph 2(a) of Article 5

According to the official data presented by Slovakia in its notifications under Article 12, the average level of imports in the reference period of three years (1997-1999) was above 8,000 tonnes, while the quantitative restriction was established at the level of 3,900 tonnes.

4. Paragraph 4 of Article 7

In the second year of its application the safeguard measure has not been liberalized. Taking into account that in the first year of its application the measure will be in effect only for seven months and the level of the quota for the whole second year is scheduled to be the same as for the seven months of the first year, the restriction is effectively strengthened rather than liberalized.

5. Paragraph 1(b) of Article 12

No notification of the final findings of the investigation was made prior to the implementation of the safeguard measure. Such notification was made after the safeguard measure had come into effect.

6. Paragraph 1(c) of Article 12

No notification on taking a decision to apply a measure was made prior to the implementation of the safeguard measure. Such notification was made after the safeguard measure had come into effect.

7. Paragraph 3 of Article 12

No opportunity for prior consultations was provided for the countries having a substantial interest as exporters of the product concerned before the application of the safeguard measure. Following that, neither has any opportunity been provided to review the information which should have been presented in the notifications under paragraphs 1(b) and (c) of Article 12 (also because the notifications themselves were not made on time), nor have the negotiations on concessions under paragraph 1 of Article 8 taken place.

Poland considers that the investigation conducted in the way described above, and the safeguard measure imposed, have nullified or impaired the benefits accruing to Poland directly or indirectly under the covered Agreement.

The Government of Poland is looking forward to receiving a prompt reply from the Government of Slovakia to this request as well as the establishment of a mutually convenient date and place for the initiation of consultations.

The Government of Poland reserves the right to raise other factual or legal claims in the course of the consultations.
