

## **ARGENTINA – MEASURES AFFECTING THE EXPORT OF BOVINE HIDES AND THE IMPORT OF FINISHED LEATHER**

### Request for the Establishment of a Panel by the European Communities

The following communication, dated 31 May 1999 from the Permanent Delegation of the European Delegation to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On behalf of the European Communities, I have the honour to request the establishment of a Panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (GATT 1994) and Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes regarding the following measures maintained by Argentina :

- (1) the de facto export prohibition on raw and semi tanned bovine hides, which is implemented in particular through the authorization granted by the Argentinean authorities to the Argentinean tanning industry to participate in customs control procedures of hides before export (Resolution of the National Customs Administration No. 2235/96 of 27 June 1996 or any law or administrative regulation amending or replacing it);
- (2) the “additional VAT” of nine per cent raised on the import of products into its territory (Articles 1 and following of General Resolution DGI 3431/91, and Article 1 of General Resolution DGI 3975/95 of 3 April 1995 or any law or administrative regulation amending or replacing them); and
- (3) the “advance profit tax” based on the price of the imported goods imposed on operators when importing goods into Argentina (Presidential Decree 1076/92 of 30 June 1992 and Resolution DGI 3955/95 or any law or administrative regulation amending or replacing them).

On 23 December 1998, the European Communities requested consultations with Argentina with a view to reach a mutually satisfactory solution of the matter. The request was circulated in document WT/DS155/1 G/L/287 dated 4 January 1999. Such consultations, which were held on 5 February 1999 in Geneva, have allowed a better understanding of the respective positions, but have not led to a satisfactory resolution of the matter.

In the European Communities view, the Argentinean measures enumerated hereabove are not in conformity with the Republic of Argentina’s obligations under GATT 1994, and in particular:

- Article XI:1 of GATT 1994, which, *inter alia*, prohibits Members to institute or maintain prohibition to the export of products destined for the territory of any other Member. Factual evidence shows that the Argentinean export regime for raw and semi-tanned bovine hides operates as a de facto export prohibition. Therefore, the European Communities request the panel to consider that this export prohibition constitutes a breach of Article XI:1 of GATT 1994.
- Article X:3(a) of GATT 1994 which, *inter alia*, imposes the obligation on Members to administer laws and regulations pertaining to requirements on exports in a uniform and impartial manner. Personnel appointed by the Argentinean Chamber for the tanning industry, which has an obvious interest in preventing exports, are authorized to assist the Argentinean customs authorities in carrying out customs controls of raw and semi-tanned bovine hides before exports. Therefore, the European Communities request the panel to consider that, apart from being part of the export regime designed to make exports of hides impossible, this measure constitutes in itself a violation of Article X:3(a) of GATT 1994.
- Article III:2 of GATT 1994 which provides that products of the territory of any Member which are imported into the territory of any other member shall not be subject to internal taxes in excess to those applied to like domestic products.
  - (a) Argentina applies an “additional VAT” of nine per cent on imported products. In practice this means that the VAT rate for imported goods is thirty per cent instead of twenty one per cent for goods purchased on the domestic market. The VAT-rate for imported goods is thus discriminatory when compared to the rate applied on domestic sales. Therefore, the European Communities request the panel to find that the additional VAT is a violation of the national treatment principle enshrined in Article III:2 of GATT 1994.
  - (b) Operators who import foreign goods into Argentina must pay an “advance turnover tax” of three per cent of the price of the goods, which implies a discrimination in favour of Argentinean input material for the manufacture and finished consumer goods. Therefore, the European Communities request the panel to find that this “advance turnover tax” also constitutes a violation of Article III:2 of GATT 1994.

The European Communities consider that reference to the above legal bases does not rule out recourse to any other pertinent provision of the WTO Agreement and of the Agreements annexed to it.

The European Communities request that the panel be established with the standard terms of reference as provided for in Article 7 of the DSU.

The European Communities ask that this request be placed on the agenda for the next meeting of the Dispute Settlement Body.

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