

**EUROPEAN COMMUNITIES - REGIME FOR THE IMPORTATION,
SALE AND DISTRIBUTION OF BANANAS**

Request to Join Consultations

Communication from Saint Lucia

The following communication, dated 9 September 1998, from the Permanent Mission of Saint Lucia to the Permanent Delegation of the European Commission, the Permanent Missions of Ecuador, Guatemala, Honduras, Mexico and the United States and to the Dispute Settlement Body, is circulated pursuant to the procedure provided for under Article 21.5 of the DSU.

I refer to the request for consultations by Ecuador, Guatemala, Honduras, Mexico and the United States circulated by the World Trade Organization on 31 August 1998 in WT/DS27/18.

The Government of St. Lucia hereby requests, pursuant to Article 4, paragraph 11 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, to be joined in the above requested consultations.

The share of banana exports in the total exports of St. Lucia in 1995 amounted to 61.5 per cent. Any substantial fall in returns from bananas would have far reaching and negative consequences for the economy of St. Lucia. The only market in which bananas from St. Lucia are marketed is the EC and any modifications to the EC banana regime which significantly reduce the provisions in favour of St. Lucia would jeopardize our access to our sole export market and give rise to a disastrous situation and economic collapse would seem inevitable.

The request for consultations specifically requests consultations on the WTO Waiver granted for the Lomé Convention and on the provisions in relation to tariff reductions for traditional and non-traditional ACP bananas. St. Lucia is a signatory to the fourth ACP/EC Lomé Convention and is one of the beneficiaries of the Protocol 5 on bananas. Therefore, St. Lucia has unquestionably a "substantial trade interest" and indeed a vital interest, in the proposed consultations, within the meaning of Article 4, paragraph 11 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

The Government of St. Lucia must express its concern at the statement in the request for consultations that such consultations constitute "unnecessary, hollow procedural steps that will needlessly consume time and resources." Consultations are an essential procedural requirement prior to a request for a Panel. It is disquieting that the requesting parties would consider such procedural steps to be "hollow", in particular where such consultations also confer rights on third parties such as

St. Lucia and others which are signatories to the Lomé Convention. We must express our concern therefore that consultations will be carried out in the proper spirit of the DSU in accordance with the requirements of Article 4.1 and 4.2.

We must assume that the penultimate paragraph of the letter to the EU dated 18 August in which the complainants ask for dates during the next "week or two" to engage in consultations was an oversight. Clearly, to have carried out and completed consultations prior to the date on which third parties are entitled to request to be joined in those consultations would have been a substantial breach of the spirit and terms of the DSU to which each of these countries is a signatory.

While we do not necessarily accept that the complainants are entitled to seek consultations on all of the issues listed in the request for consultations, without prejudice to this, we request to be joined in the consultations on each and everyone of the issues enumerated therein.

We look forward to a prompt response from the parties confirming their acceptance of St. Lucia's substantial interest in these consultations.
