

Original: English

EUROPEAN COMMUNITIES - MEASURES AFFECTING
IMPORTATION OF CERTAIN POULTRY PRODUCTS

Request for the Establishment of a Panel by Brazil

The following communication, dated 12 June 1997, from the Permanent Mission of Brazil to the Chairman of the Dispute Settlement Body, is circulated at the request of that delegation.

Upon instructions from my Government, I have the honour to request the establishment of a Panel pursuant to Articles 4 and 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, Article XXIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 6 of the Agreement on Import Licensing Procedures and Article 19 of the Agreement on Agriculture, with regard to the EC regime for the importation of certain poultry meat products, and the implementation by the EC of the tariff rate quota in these products agreed in negotiations between Brazil and the European Community.

The contested measures at issue are the rules governing the importation of poultry meat falling within CN codes 0207 14 10, 0207 14 50 and 0207 14 70 (formerly 0207 41 10, 0207 41 41 and 0207 41 71).

The Government of Brazil considers that the EC has failed, in Council Regulation (EC) No. 774/94 of 29 March 1994 (Official Journal L91 of 8 April 1994) and in Commission Regulation (EC) No. 1431/94 of 22 June 1994 (Official Journal L156 of 23 June 1994), as amended, to implement and administer a compensation tariff rate quota in line with the bilateral agreement reached between Brazil and the EC within the context of GATT Article XXVIII:4 negotiations.

In addition, Brazil considers that the EC has introduced special safeguard provisions on the basis of Council Regulation (EC) 3290/94 of 22 December 1994 (Official Journal L349 of 31 December 1994) and Commission Regulation (EC) No. 1484/94 of 28 June 1995 (Official Journal L145 of 29 June 1995), as amended, which do not meet the requirements of Articles 4 and 5 of the Agreement on Agriculture.

Finally, the Government of Brazil considers that the EC has failed to implement the tariff rate quota and the price safeguard provisions in a transparent manner. As a result, in relation to consignments to the EC, Brazil is not in a position either to benefit or to know that it is benefiting from rights pursuant to membership of the WTO.

On 24 February 1997, Brazil requested consultations with the EC with a view to reaching a mutually satisfactory solution of the matter. The request was circulated in document WT/DS69/1, dated 4 March 1997. Such consultations were held in Geneva on 11 April 1997 and on 21 May 1997, but unfortunately they failed to settle the dispute.

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Therefore, Brazil requests that the Panel consider and find that the EC poultry import regime is inconsistent with, among others:

- (a) Articles II, III, X, XIII and XXVIII of the GATT 1994;
- (b) Articles 1 and 3 of the Agreement on Import Licensing Procedures; and
- (c) Articles 4 and 5 of the Agreement on Agriculture.

The EC measures also produce distortions in trade which nullify or impair benefits accruing directly or indirectly to Brazil, under the cited Agreements and impede the objectives of the WTO.

Brazil respectfully requests that the Panel be established with the standard terms of reference as set out in Article 7 of the DSU.

Brazil further asks that this request for the establishment of a Panel be included in the agenda of the Dispute Settlement Body meeting scheduled for 25 June 1997.