

**UNITED STATES – IMPORT MEASURES ON CERTAIN PRODUCTS
FROM THE EUROPEAN COMMUNITIES**

Request for the Establishment of a Panel by the European Communities

The following communication, dated 11 May 1999, from the Permanent Delegation of the European Commission to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

I have the honour to request, on behalf of the European Communities, the establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and Articles 4 and 6 of the Dispute Settlement Understanding (DSU) with respect to the US decision, effective as of 3 March 1999, to withhold liquidation on imports from the EC of a list of products, together valued at \$520 million on an annual basis, and to impose a contingent liability for 100% duties on each individual importation of affected products as of this date (annex 1). This measure includes administrative provisions that foresee, among other things, the posting of a bond to cover the full potential liability.

This measure has deprived EC imports into the US of the products in question of the right to a duty not in excess of the rate bound in the US Schedule. Moreover, by requiring the deposit of a bond, US Customs effectively already imposed 100% duties on each individual importation as of 3 March 1999, the return of which was uncertain, depending on future US decisions. When the US received WTO authorisation on 19 April 1999 to suspend concessions as of that date on EC imports of products with an annual value of only \$191.4 million, a more limited list of products was selected from the previous list (annex 2). At the same time, the US confirmed, despite the prospective nature of the WTO authorisation, the liability for 100% duty on the products on the list in annex 2 that had entered the US for consumption with effect from 3 March 1999.

The European Communities considers that this US measure is in flagrant breach of the following WTO provisions:

- Articles 3, 21, 22 and 23 of the DSU;
- Articles I, II, VIII and XI of GATT 1994.

Through these violations of fundamental WTO rules, the US measure nullifies or impairs benefits accruing, directly or indirectly, to the European Communities under GATT 1994. This measure also impedes important objectives of GATT 1994 and of the WTO.

On 4 March 1999, the European Communities requested consultations with the United States on this matter, pursuant to Article 4 DSU and Article XXII:1 of GATT 1994. This request was

circulated in document WT/DS165/1 of 5 March 1999. Consultations were held on 21 April 1999, the US having refused the participation of all third parties. These consultations did not result in a mutually agreeable solution.

The European Communities requests that the panel be established with standard terms of reference.

Annex 1**LIST OF PRODUCTS**

The withholding of liquidation will apply to products that are both: (1) classified in the subheadings of the Harmonised Tariff Schedule of the United States listed below; and (2) the product of Austria, Belgium, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, or the United Kingdom. The product descriptions that are provided below are for the convenience of the reader and are not intended to delimit in any way the scope of the products that would be subject to increased duties.

HTS Number	Product Description
02101900	Meat of swine, other than hams, shoulders, bellies (streaky) and cuts thereof, salted, in brine, dried or smoked
04069057	Pecorino cheese, from sheep's milk, in original loaves, not suitable for grating
19053000	Sweet biscuits, waffles and wafers
33073050	Bath preparations, other than bath salts
34060000	Candles, tapers and the like
39202000	Nonadhesive plates, sheets, film, foil and strip, noncellular, not reinforced or combined with other materials, of polymers of propylene
42022215	Handbags, with or without shoulder straps or without handle, with outer surface of sheeting of plastics
42023210	Articles of a kind normally carried in the pocket or handbag, with outer surface of reinforced or laminated plastics
48055000	Uncoated felt paper and paperboard in rolls or sheets
48192000	Folding cartons, boxes and cases of noncorrugated paper or paperboard
49119120	Lithographs on paper or paperboard, not over 0.51mm in thickness, printed not over 20 years at time of importation
61101010	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, wholly of cashmere
63022190	Bed linen, not knit or crochet, printed, of cotton, not containing any embroidery, lace, braid, edging, trimming, piping or applique work, not napped
85072080	Lead-acid storage batteries other than of a kind used for starting piston engines or as the primary source of power for electric vehicles
85167100	Electrothermic coffee or tea makers, for domestic purposes

Annex 2

The Harmonized Tariff Schedule of the United States (HTS) is modified by adding in numerical sequence the following superior text and subheadings to subchapter III of chapter 99 to the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1-General", respectively.

<p>“Articles the product of Austria, Belgium, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, or the United Kingdom:</p>		
9903.08.04	Bath preparations, other than bath salts (provided for in subheading 3307.30.50).....	100%
9903.08.07	Handbags, whether or not with shoulder strap, including those without handle, with outer surface of sheeting of plastic, (provided for in subheading 4202.22.15).....	100%
9903.08.08	Articles of a kind normally carried in the pocket or in the handbag, with outer surface of sheeting of plastic, of reinforced or laminated plastics (provided for in subheading 4202.32.10).....	100%
9903.08.09	Uncoated felt paper and paperboard in rolls or sheets (provided for in subheading 4805.50).....	100%
9903.08.10	Folding cartons, boxes and cases, of noncorrugated paper or paperboard (provided for in subheading 4819.20)....	100%
9903.08.11	Lithographs on paper or paperboard, not over 0.51 mm in thickness, printed not over 20 years at time of importation (provided for in subheading 4911.91.20).....	100%
9903.08.13	Bed linen, other than knit or crocheted, printed, of cotton, other than containing any embroidery, lace, braid, edging, trimming, piping or applique work, not napped (provided for in subheading 6302.21.90).....	100%
9903.08.14	Lead-acid storage batteries, other than of a kind used for starting piston engines or as the primary source of electrical power for electrically powered vehicles of subheading 8703.90 (provided for in subheading 8507.20.80).....	100%
<p>Articles the product of Austria, Belgium, Finland, France, the Federal Republic of Germany, Greece, Ireland, Luxembourg, Portugal, Spain, Sweden, or the United Kingdom:</p>		
9903.08.15	Electrothermic coffee or tea makers, of a kind used for domestic purposes (provided for in subheading 8516.71).....	100%