



Brussels, 1 August 1991

DIRECTORATE-GENERAL  
EXTERNAL RELATIONS

Comments from Commission services on the informal US statement on Spanish/Portuguese enlargement, as presented at meeting on 30 June

The Commission services share the view that it will not be productive at this time to repeat or to seek to resolve the differences of view on both sides on the interpretation of GATT provisions relating to EC enlargement, and in particular as regards Article XXIV:6.

In view of some elements of the US statement, however, it is necessary to restate our opinion about the status and objective of the bilateral agreement reached in 1987 on this subject.

First, it is our view - and this is confirmed by the text of the agreement - that the Article XXIV:6 negotiations with the United States were concluded in early 1987. Point IV of the agreement is clear on this matter. The existence of the 1987 agreement, and the review clause, should not be understood as keeping these tariff negotiations open to be resumed at a later stage.

It follows from this that we do not consider that permanent compensation for the loss of US bindings on its maize/sorghum exports to Spain is still to be negotiated. The agreement states that the general review of trade developments in the period following the enlargement, and in particular in the light of the results of the Uruguay Round on agriculture, would have as its objective to determine "what new action, if any, might be appropriate". It is our firm and often expressed view that no further action will be required once the Uruguay Round is completed.

Secondly, we have always underlined that the benefits of new tariff concessions by Spain and Portugal on US industrial exports were fully sufficient to give compensation for the bindings withdrawn on agricultural products. The text of the agreement specifically records, at Point II (a), that there was US recognition of these benefits and therefore that this approach was shared by both sides. Accordingly, the view within the Community continues to be that the extension of the Community's tariff bindings to cover Spain and Portugal, as set out in the 1987 agreement, was itself a balanced and fair result which maintained the general level of reciprocal and mutually advantageous concessions of both sides.

In our view the specific purpose of the 1987 agreement was to provide some additional compensation for the effects of the immediate application of the CAP mechanisms to US maize/sorghum exports. It was

essentially a transitional measure, recognising that the benefits for the USA deriving from improved access for industrial products would only be felt over time as new bindings at progressively lower duty levels were phased in over a seven year period. After five years these benefits are now fully in operation and there is no reason, based on the balance of GATT tariff concessions arising out of enlargement, for the temporary compensation accorded in the 1987 agreement to be further prolonged.

We recognise nevertheless that there may be difficulties in terminating the present arrangements relating to maize/sorghum trade completely before the results of the Uruguay Round are available. We have made it clear repeatedly that we would expect that appropriate minimum access commitments, agreed as part of the overall Uruguay Round result, would in due course provide a satisfactory basis for continuing trade in these products. We reserve the right therefore of the Community to make new proposals in this context for the period after the end of 1991.

Finally, and in view of the specific insistence in the US statement on a willingness to take any actions that are necessary to obtain permanent compensation and to preserve GATT rights, we would draw attention to the following observations. First, before invoking any GATT rights which may still exist, the US should take account of the fact that the tariff negotiations have been concluded and that the review to determine the need for further action is unfinished. The use of Article XXVIII provisions in such a situation would therefore have to be justified, and in particular the existence of a clear imbalance in reciprocal tariff concessions would have to be demonstrated. Secondly, if US claims in this case were to be pursued on the basis that has been indicated in the past, (ie to offset an alleged trade loss of \$400 m.) it should be borne in mind that this calculation is clearly excessive and incorrect. The figures bear no relation to the trade flows in 1983-85 (the three years prior to enlargement) nor to the real value of the binding that was withdrawn, taking account of the trend in US exports of maize/sorghum. Any action at this level would therefore be a matter for immediate challenge.

While we have felt it necessary to make our position clear on these points we do not, as already stated, propose to reopen the issues of substance and of interpretation which were discussed in 1986 and 1987. We do however believe that there is merit in further discussion of possible alternative approaches to further prolongation of the 1987 agreement and we suggest that this be the object of the bilateral meeting to take place on 13 September next.

