

COMMISSION OF THE EUROPEAN COMMUNITIES

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Recommendation for a

COUNCIL DECISION

concerning the conclusion of an agreement on certain oilseeds between
the European Economic Community and the United States of America
within the framework of the GATT

(presented by the Commission)

Explanatory Memorandum

1. As a result of a complaint by the United States, a GATT panel found that the Community's system of granting aid for the processing of oilseeds did not conform to GATT provisions and had impaired the value of the tariff concession (zero duty) which the Community had accorded the United States in 1962.
2. As a result of the decision of the GATT panel, the Community amended its system of aids to conform to the GATT provisions. Although the United States acknowledged that the amended system now complied with the GATT provisions, it was of the opinion that the 1962 concession was still affected. The USA therefore requested that the members of the GATT panel be reconvened; they found that there was still a reduction in the value of the concession (impairment) and asked the Community to act rapidly to eliminate it either by amending the system of internal aids or by renegotiating the tariff concession on the basis of the provisions of Article XXVIII of the GATT. The reconvened Panel Members added that "In the event that the dispute is not resolved expeditiously in either of these ways, the Contracting Parties should, if requested by the United States, consider further action under Article XXIII:2 of the General Agreement."
3. The Community chose the second approach proposed by the reconvened members of the GATT panel and sought and got authorization from the Contracting Parties to initiate negotiations under paragraph 4 of Article XXVIII of the GATT. Negotiations and consultations then got under way with the United States and nine other GATT contracting parties (Argentina, Brazil, Canada, Uruguay, Poland, Sweden, India, Pakistan and Hungary).
4. In the negotiations the United States estimated that the trade losses caused by the reduction in the tariff concessions for oilseeds amounted to 2 billion dollars, 1 billion dollars of which was lost by the United States itself. Like the United States, the other contracting parties in the negotiations also assessed the trade losses overall at two billion dollars. These figures have been contested and rejected by the Community.

5. As the negotiations were making no headway, the United States began a procedure for unilateral retaliatory measures in early November 1992 fixing, as a start, countervailing duties at 100% for imports of several agricultural products of Community origin with a commercial value of some 300 million dollars with a possible later imposition of measures up to 1 billion US \$. The negotiations between the delegations of the Commission of the European Communities and the United States, conducted at ministerial level, resulted in an agreement which the two delegations undertook to submit to their respective authorities. The text of the agreement is set out in the "Memorandum of Understanding on Oilseeds" of 3 December 1992.

As a result of this agreement, the United States terminated its action against the Community ("Termination of Section 301 investigation and Action regarding the European Community's Oilseeds Subsidy Regime") and cancelled the procedure relating to the application of retaliatory measures against the Community. However, the case is still being monitored under Section 301 of the Trade Act ("Notice of Monitoring pursuant to Section 306 of the Trade Act"), which allows the United States to take action and introduce retaliatory measures if it considers this necessary.

6. Negotiations and consultations under Article XXVIII:4 of the GATT with nine other GATT contracting parties are still under way and may continue for some time to come.
7. To ensure that the agreement concluded with the United States is implemented in due time so that the deadlines laid down therein can be met, the Commission is proposing to the Council that the agreement on oilseeds concluded between the United States and the European Economic Community be formally approved on the basis of the Memorandum of Understanding on Oilseeds of 3 December 1992.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 113 thereof,

Having regard to the recommendation of the Commission,

Whereas a GATT panel found that a consequence of the Community's support
scheme for oilseeds was an impairment of the value of the tariff concession
which the Community had granted to the United States in 1962;

Whereas the GATT panel consequently recommended that the Community should
act quickly to eliminate this impairment of the value of the tariff
concessions;

Whereas a mutually satisfactory agreement was reached in the negotiations
initiated with the United States of America;

Whereas this agreement with the United States of America should be quickly
given effect, so that the deadlines contained therein can be met,

HAS DECIDED AS FOLLOWS:

Article 1

The agreement between the European Economic Community and the United States
of America on oilseeds in the framework of the General Agreement on Tariffs
and Trade is hereby approved on behalf of the European Economic Community.

The text of the agreement is annexed to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to sign the agreement in order to bind the Community.

This Decision shall be published in the Official Journal of the European Communities.

Done at Brussels,

For the Council
The President

MEMORANDUM OF UNDERSTANDING ON OILSEEDS

1. European Community (EC) legislation for producers of rape and colza seeds, sunflower seeds, and soybeans is set out in Council Regulation (EEC) No 1765/92 of 30 June 1992.
2. The EC shall implement the following additional adjustments to the benefits accruing to European producers under this program in respect of crop specific oilseeds payments.
3. (a) The EC shall not engage in any market support expenditure in respect of rape and colza seeds, sunflower seeds and soybeans except in accordance with the terms and conditions provided under the regulation specified in paragraph (1).

(b) The EC shall exclude from the benefits of the regime, the cultivation of 'confectionery sunflowerseed' with effect from sowings for harvest in 1994.
4. The EC shall introduce a separate base area (SBA) for producers benefitting from the crop specific oilseeds payments system which shall respect the following principles:
 - progressive implementation to affect those crops planted for harvest in 1994 and subsequent years,
 - in recognition of the Treaties of Accession, full implementation for Spain and Portugal will commence in 1995/96.
5. The SBA system shall have the following components:
 - an EC oilseed base area shall be established for which crop specific oilseeds payments are made (the figures for EC-12 are set out in Annex 1);
 - for a particular marketing year the applicable EC-12 oilseeds base area shall be reduced to reflect the annual set aside rate for arable crops fixed by the Council. In no year, however, shall the reduction be less than ten (10) percent of the base.
6. In respect of any marketing year (without prejudice to the provisions of the corrective mechanism specified in Regulation (EEC) No 1765/92 Article 5, 1(d)), crop specific oilseeds payments shall be subject to the following additional discipline:
 - For every one percent of area planted benefiting from crop specific oilseeds payments in excess of the EC oilseed base area (after reduction in conformity with (5)), the compensatory payments to such oilseed

producers shall be reduced by one percent.

- Any such decreases in compensatory payments applied to area planted above the SBA shall be applied in the same marketing year.

- In addition, the percentage decrease in the adjusted compensatory payment shall be carried forward to the following marketing year.

- However, in any year in which there is no decrease required in the compensatory payment (i.e. area planted is equal to or below the SBA (after reduction in conformity with (5))), the compensatory payment in that year may return to the level of the base reference amount.

- Subsequent adjustments in the compensatory payment shall be applied in the manner described above.

7. Should the byproducts made available as a result of the cultivation of oilseeds on land set aside for the manufacture within the Community of products not primarily intended for human or animal consumption exceed one million metric tons annually expressed in soybean meal equivalents, the EC shall take appropriate corrective action within the framework of the CAP reform.
8. The EC shall grant a tariff-rate quota for imports of 500,000 metric tons of corn into Portugal, beginning in the 1993/94 marketing year. The within quota tariff rate shall be bound at such levels so as to ensure that the quota shall be filled.
9. The EC shall incorporate the commitments set forth in paragraphs 1 through 8 herein in the EC Schedule of domestic support commitments to be annexed to the Uruguay Round Protocol to the GATT.
10. The United States agrees to forego any further compensation claim for impairment of the bindings. If either party considers this agreement has been breached, the parties agree to undertake binding arbitration in the GATT on the issues of breach, damage and remedy.

3 December 1992

ANNEX 1

EC-12 OILSEED SEPARATE BASE AREA SYSTEM 1/
 (soybeans, rape and colza seeds and sunflower seeds)

Country/oilseed	Reference Year /2	
	1994/95	1995/96 and subsequent years 3/
	<u>Hectares</u>	
Spain sunflower seed	1,411,000	---
Portugal sunflower seed	122,000	---
EC-12 Other	3,966,000	---
TOTAL	---	5,128,000

1/ figures to be reduced to reflect the annual set aside rate for arable crops

2/ The term 1994/95 refers to the EC marketing year, i.e., oilseeds (both winter and spring sown) for harvest in 1994.

3/ It is understood that, should the membership of the EC be expanded, this agreement will be amended to reflect an increase in the separate base area in an amount no more than the average level of production area of the acceding member in the three years immediately preceding such accession.