

**UNITED STATES - MEASURES AFFECTING THE IMPORTATION
OF FRESH LEMONS**

Request for Consultations by Argentina

The following communication, dated 3 September 2012, from the delegation of Argentina to the delegation of the United States and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the United States pursuant to Articles 1 and 4 of the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article XXIII of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), and Article 11 of the *Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement), concerning United States measures affecting the importation of fresh lemons¹ from the North-East region² of Argentina, as described below.

Prohibition on the importation of fresh lemons from the North-East region of Argentina

For nearly 11 years, the United States has maintained a ban on imports of citrus fruits, which covers fresh lemons from the North-East region of Argentina. The import ban can be inferred from the following measures:

- (a) The regulations under the Code of Federal Regulations, Title 7, Part 319, Subpart 28 "Citrus Fruit" (7 CFR 319.28) and Subpart 56 "Fruits and Vegetables" (7 CFR 319.56 to 319.56.56);
- (b) the final rule of the Animal and Plant Inspection Service (APHIS), amending the regulations established in the Code of Federal Regulations, Title 7, Parts 300 and 319 (7 CFR Part 300 and 319), [Docket No. 02-026-4], published in the Federal Register on 25 June 2003, removing and reserving the administrative instructions governing such importation; and
- (c) the judgement in the case concerning "*Harlan Land Company, et al. vs. United States Department of Agriculture, et al.*"³

¹ Citrus limon (L.) Burm. f. (Rutaceae).

² The North-East region of Argentina comprises the provinces of Catamarca, Jujuy, Salta and Tucumán.

³ *Harlan Land Company, et al. vs. United States Department of Agriculture, et al.* Case #CV-F-00-6106-REC/LJO (D. Ariz. 27 September 2001).

The maintenance of this ban, in relation to fresh lemons from the North-East region of Argentina, lacks scientific justification and constitutes an import prohibition inconsistent with the rules of the SPS Agreement and the GATT 1994.

Failure to approve the importation of fresh lemons from the North-East region of Argentina

The United States has failed to approve the importation of fresh lemons from the North-East region of Argentina under Title 7, Part 319, Subpart 56 "Fruits and Vegetables" (7 CFR 319.56 to 319.56.56) and related provisions.

Argentina considers that this lack of approval has no scientific justification and constitutes an import prohibition inconsistent with the rules of the SPS Agreement and the GATT 1994.

Undue delays in approval procedures relating to fresh lemons from the North-East region of Argentina

The United States has also been responsible for undue delays in applying the procedures contained in the Code of Federal Regulations (CFR) - Title 7, Part 319, Subpart 56 "Fruits and Vegetables" (7 CFR 319.56 to 319.56.56), for the amendment of the US import approval process for fruits and vegetables.

These undue delays have occurred with regard to import approval procedures for fresh lemons from the North-East region of Argentina.

Seven years have elapsed since those procedures were initiated, in accordance with the request made by Argentina in 2005, but no action has even been taken to publish a proposal for amendment of the corresponding regulation in order to authorize the importation of fresh lemons from the North-East region of Argentina.

The undue delays are inconsistent with the rules of the SPS Agreement.

Through the aforementioned measures, the United States also discriminates against fresh lemons from the North-East region of Argentina.

In view of the foregoing, the US measures appear to be inconsistent, in particular but not exclusively, with that country's obligations under the following rules of the covered agreements.

- (i) Articles I:1, III:4, X:1, X:3 and XI:1 of the GATT 1994;
- (ii) Articles 1.1, 2.2, 2.3, 3.1, 3.3, 5.1, 5.2, 5.4, 5.6 and 7, Annex B, 8, Annex C and Article 10.1 of the SPS Agreement;
- (iii) Article XVI:4 of the Marrakesh Agreement.

The US measures appear to nullify or impair the benefits accruing to Argentina, directly or indirectly, under the covered agreements.

Argentina reserves the right to include rules related to or amending those referred to in this request for consultations, as well as to increase the claims relating thereto, in the course of the consultations.

Argentina looks forward to a favourable response to this request for consultations and expresses its readiness to coordinate a mutually convenient date and place for the consultations.
