

AUSTRALIA - MEASURES AFFECTING IMPORTATION OF SALMON

Recourse by Canada to Article 22.2 of the DSU

The following communication, dated 15 July 1999, from the Permanent Mission of Canada to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 22.2 of the DSU.

Canada requests a special meeting of the Dispute Settlement Body on 27 July 1999 to consider the following agenda item:

Australia - Measures Affecting Importation of Salmon
- Recourse by Canada to Article 22.2 of the DSU.

Both the panel and the Appellate Body in this dispute found the Australian measures in dispute to violate the Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS" Agreement). On 6 November 1998, the DSB adopted the Appellate Body report and the report of the panel, as modified by the Appellate Body report. The resulting DSB recommendations and rulings include the recommendation that Australia bring its measures found to be inconsistent with the SPS Agreement into conformity with its obligations under that agreement. Subsequently, an arbitration pursuant to Article 21.3(c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) fixed the reasonable period of time for the implementation of the DSB recommendations and rulings at 8 months from 6 November 1998.

The reasonable period of time for compliance expired on 6 July 1999. Canada understands that the import ban that was the subject of this dispute continues in force. Canada has not sought negotiations with Australia on mutually acceptable compensation within the meaning of DSU Article 22.2. However we note that - as a technical matter - the twenty-day period envisaged by Article 22.2 for negotiations on compensation will not expire until the close of day on 26 July. Therefore, we are seeking a special DSB meeting on 27 July.

Canada is quite prepared to have our request heard at the 26 July regular session of the DSB, if no delegation objects to this. If there are any such objections, then we will need to proceed with a special DSB meeting on 27 July.

At the meeting of the DSB, Canada intends to request, pursuant to Article 22.2 of the DSU, authorization from the DSB to suspend the application to Australia of tariff concessions and related obligations under the General Agreement on Tariffs and Trade 1994 covering trade in the amount of Can\$45 million. Canada intends to implement the suspension of tariff concessions and related obligations under the GATT 1994 by imposing a surtax of 100 per cent above existing customs duties on a list of products. On 29 May 1999, Canada published in the Canada Gazette a proposed list of products on which concession could be withdrawn, and on which public comment is now being received. This list is attached for ease of reference. The trade value of the final list of products subject to surtaxes will be equivalent, on an annual basis, to Can\$45 million.

A. TARIFF	<i>Description</i>
<i>Item or Heading</i>	
0204.10.00	Carcasses and half-carcasses of lamb, fresh or chilled
0204.21.00	Carcasses and half-carcasses of sheep, fresh, or chilled
0204.22.10	Other cuts of lamb with bone in, fresh or chilled
0204.22.20	Other cuts of mutton with bone in, fresh or chilled
0204.23.00	Other meat of lamb or mutton, boneless, fresh or chilled
0204.30.00	Carcasses and half-carcasses of lamb, frozen
0204.41.00	Carcasses and half-carcasses of meat of sheep, frozen
0204.42.10	Other cuts of lamb, with bone in, frozen
0204.42.20	Other cuts of mutton, with bone in, frozen
0204.43.10	Other meat of lamb, boneless, frozen
0204.43.20	Other meat of mutton, boneless, frozen
0303.77.00	Sea bass, (<i>Dicentrarchus labrax</i> , <i>Dicentrarchus punctatus</i>) frozen, excluding livers and roes, and excluding fish fillet and othr fish meat (whether or not minced) fresh, chilled or frozen of Heading No. 03.04
0303.79.00	Other fish, frozen, classified under heading No.0303.79.00 of the Customs Tariff Schedule excluding livers and roes, and excluding fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen of heading 03.04
0304.20.00	Frozen fillets of Pollock, classified under tariff item No. 0304.20.00 of the Customs Tariff Schedule
0305.59.00	Dried fish, whether or not salted but not smoked, except Cod (<i>Gadus morhua</i> , <i>gadus ogac</i> , <i>gaduc macrocephalus</i>)
0306.11.00	Rock lobster and other sea crawfish (<i>Palinurus</i> spp., <i>Panulirus</i> spp., <i>Jasus</i> spp.) frozen and in shell
0306.13.00	Shrimps and prawns, frozen, shelled or in shell
0307.29.10	Scallops, including queen scallops, of the genera <i>Pecten</i> , <i>Chlamys</i> or <i>Placopecten</i> , frozen
0307.99.00	Other molluscs, frozen, including squid and other aquatic invertebrates, fit for human consumption
0404.10.10	Whey protein concentrates
0406.90.11	Cheddar cheese, within access commitment, classified under tariff item 0406.90.11
0603.10.90	Cut flowers & flower buds, fresh, excluding roses, carnations, chrysanthemums and orchids suitable for bouquets
0713.20.00	Chickpeas (<i>garbanzos</i>), dried, shelled, whether or not skinned or split
0713.31.10	Beans, of the species <i>Vigna Radiata</i> (L.) Wilczek mung or green gram, in bulk or in packages of weight exceeding 500g dried, whether or not skinned or split.
0713.31.90	Other beans, of the species <i>Vigna mungo</i> (L.) Hepper or <i>Vigna Radiata</i> (L.) Wilczek mung or green gram, in pack not exceeding 500g dried, whether or not skinned or split
0713.40.00	Lentils dried, excluding seed
0802.90.00	Nuts, fresh or dried whether or not shelled or peeled, excluding nuts classified in the other tariff items under Heading 08.01 of the Customs Tariff Schedule
0805.10.00	Citrus fruit, Oranges, excluding Temple, fresh
0805.20.00	Mandarins, (excluding tangerines); clementines, wilkings and similar citrus

A. TARIFF	<i>Description</i>
<i>Item or Heading</i>	
	hybrids, fresh or dried
0806.20.00	Grapes, dried
0808.20.29	Pears, fresh, excluding pears for processing
0810.40.10	Blueberries of the genus <i>Vaccinium</i> , cultivated, fresh, in their natural state, excluding wild blueberries
0810.90.00	Other Fruits, fresh, not classified elsewhere
0910.10.10	Ginger, neither crushed nor ground
1006.20.00	Rice, husked, (brown), any mixtures of long, medium, short grain
1006.30.00	Semi-milled or wholly milled rice, whether or not polished or glazed, parboiled, long grain, including mixtures medium, short and mixture rice, broken
1006.40.00	Rice, broken
1008.20.00	Millet seed
1209.21.00	Lucerne (alfalfa) seeds, of a kind used for sowing
1209.22.00	Clover (<i>Trifolium</i> spp.) seed, of a kind for sowing
1210.20.00	Hop cones, in the form of pellets, excluding lupulin
1504.20.90	Fats and oils and their fractions, of fish, excluding fish liver oils and their fractions, whether or not refined, but not chemically modified, other than in the rough for use in the manufacture of soaps and oils
1602.50.91	Other prepared or preserved meat, of bovine animals, excluding meat offal or blood, not in cans or glass jars and excluding prepared meals
1602.50.99	Other prepared or preserved meat, of bovine animals, excluding meat offal or blood, not in cans or glass jars and excluding meals
1605.90.90	Other Molluscs, prepared or preserved, excluding Crustaceans molluscs and other aquatic invertebrates, classified in other tariff items under Heading No. 16.05
1703.10.90	Cane molasses, resulting from the extraction or refining of sugar, excluding powder with admixture other than or anti-caking agents
1901.90.20	Other food preparations of flour, meal, starch or malt extract, excluding other malt extract, kits in packages of a weight not exceeding 11.34 kg
2006.00.90	Vegetables other parts of plants, excluding fruit, fruit peel and nuts, preserved by sugar (drained, glacé or crystallized)
2008.40.90	Pears, other than pulp or chips, whether or not in air-tight containers, otherwise prepared or preserved
2008.92.10	Fruit mixtures, consisting of akalas, akees, anchovy pears, and other
2008.92.90	Other fruit mixtures, prepared or preserved, nes
2008.99.30	Akalas, akees, anchovy pears, and other products mentioned in tariff item except mixtures
2008.99.90	Other fruits (except pulp) and edible parts of plants, otherwise
2009.60.10	Grape juice, for wine-making, concentrated, except for use in the manufacture of fruit juices or beverages
2009.70.10	Apple juice, nes, concentrated, not frozen, for use in the manufacture of apple juice
3304.99.90	1. OTHER PREPARATIONS FOR THE CARE OF THE SKIN (OTHER THAN MEDICAMENTS), SUNSCREEN OR SUN TAN PREPARATIONS, EXCLUDING BEAUTY OR MAKE-UP PREPARATIONS AND MANICURE OR PEDICURE PREPARATIONS AND OTHER POWDERS, WHETHER OR NOT COMPRESSED.

A. TARIFF	<i>Description</i>
<i>Item or Heading</i>	
4104.31.00	Other bovine leather and equine leather, parchment-dressed or prepared after tanning, other than those of heading 41.04; full grains and full grain splits
4302.19.00	Tanned or dressed whole furskins (with or without heads, tails or paws), not assembled, other than of mink, certain lamb, rabbit or hare, and other than those of heading No.43.03
5703.10.10	Carpets and other textile floor covering, machine tufted, whether or not made up of wool or fine animal hair
6201.12.00	Men's and boys' overcoats, car-coats, capes, cloaks, and similar articles of cotton
6302.60.00	Toilet linen and kitchen linen, of terry towelling or similar terry fabrics, of cotton
6403.51.00	Other footwear with outer soles of leather, covering the ankle and uppers of leather other than, sports footwear and outer soles of leather, and uppers which consist of leather straps across the instep and around the big toe
