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Committee on Safeguards

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**NOTIFICATION UNDER ARTICLE 12.1(A) OF THE AGREEMENT ON
SAFEGUARDS ON INITIATION OF AN INVESTIGATION AND
THE REASONS FOR IT**

**NOTIFICATION UNDER ARTICLE 12.4 OF THE AGREEMENT ON
SAFEGUARDS BEFORE TAKING A PROVISIONAL SAFEGUARD
MEASURE REFERRED TO IN ARTICLE 6**

ARGENTINA

The following communication, dated 15 January 2001, has been received from the Permanent Mission of Argentina.

ANNEX I

I. NOTIFICATION UNDER ARTICLE 12.1(A)

1. Date of initiation of the investigation

The planned date of initiation of the investigation is January 2001.

2. Product subject to investigation

The investigation involves peaches preserved in water containing added sweetening matter, including syrup, preserved in any other form or in water.

This product is under MERCOSUR tariff headings 2008.70.10 and 2008.70.90.

3. Reasons for initiating the investigation

- (i) The investigation was initiated pursuant to a request by the CÁMARA DE LA FRUTA INDUSTRIALIZADA DE MENDOZA (Chamber of Industrial Fruit Production of Mendoza) (CAFIM). From the evidence gathered so far, the implementing authority considers that the applicant accounts for approximately 100 per cent of domestic production in this sector.
- (ii) The evidence which served as a basis for the initiation of the investigation and the evidence for the existence of critical circumstances in which a delay might cause injury that is difficult to repair, is as follows:

The implementing authority considers that the application contains sufficient evidence of the threat of serious injury to the domestic industry caused by imports, thus fulfilling the conditions detailed by the regulations for the implementation of possible provisional safeguard measures. Likewise, it concluded from the examination of all import-related aspects that recent trends meet the conditions required by the Agreement on Safeguards to initiate an investigation concerning the imposition of a safeguard measure. The current situation therefore constitutes critical circumstances pursuant to Article 6 of the Agreement on Safeguards.

In view of the evidence submitted by the sector involved, the implementing authority finds that this evidence constitutes the critical circumstances laid down by Article 6 of the GATT 1994 Agreement on Safeguards, approved by Law No. 24.425.

Accordingly, the implementing authority has decided to initiate an investigation with respect to the application of measures.

II. NOTIFICATION UNDER ARTICLE 12.4

1. Product subject to the proposed provisional safeguard measure

Peaches in preserved water containing added sweetening matter, including syrup, and preserved in any other form or in water¹ which enter the country under MERCOSUR tariff headings

¹ Referred to hereafter by the generic term "canned peaches".

2008.70.10 (peaches preserved in water containing added sweetening matter, including syrup) and 2008.70.90 (peaches preserved by any other method).

2. Proposed safeguard measure

US\$0.50 per kg. net.

3. Proposed date of introduction of the provisional safeguard measure

January 2001.

4. Proposed duration of the provisional safeguard measure, should a decision have been adopted regarding the duration of the measure

Two hundred (200) days.

5. Explain the basis for:

- (i) Formulating a preliminary determination of an increase in imports that has caused or threatens to cause serious injury.

The National Foreign Trade Commission (CNCE) carried out a study in response to the application submitted by the Chamber of Industrial Fruit Production of Mendoza (CAFIM) to determine the existence or threat of serious injury, within the meaning of the Agreement on Safeguards, in connection with the product defined in Part 1 of this notification, the results of which are recorded in CNCE Directive No. 711 of 2 January 2001.

The analysis shows that the application contains sufficient evidence of the threat of serious injury to the domestic industry caused by imports, thereby meeting the conditions laid down by the regulations in force to implement possible safeguard measures.

The above-mentioned conclusion is based on the following aspects:

- Import trends

Recent trends in imports meet the conditions required by the Agreement on Safeguards for initiating an investigation with a view to the imposition of a safeguard measure, with reference to the following aspects:

(a) Imported product subject of the application

The imported product subject to the application is under MERCOSUR tariff headings 2008.70.10 (peaches preserved in water containing added sweetening matter, including syrup) and 2008.70.90 (peaches preserved in any other form).

(b) Absolute quantities imported

For the purposes of evaluation, the Commission considered imports of canned peaches originating from MERCOSUR non-member countries. Imports originating from MERCOSUR were not analysed since no such transactions were recorded.

The volume of imports of canned peaches from outside the MERCOSUR area fell by 45 per cent in 1998, went up by 104 per cent in 1999, and a 16 per cent rise was estimated for 2000.

Imports measured in f.o.b. dollars showed a decreasing trend in 1996, 1997 and 1998, then rose by 69 per cent in 1999 and by 11 per cent in the first eleven months of 2000.

(c) Imports in relation to domestic production

The annual estimate for imports for 2000 was 13 per cent of domestic production. If the January-October period is compared with the same period in 1999, the figure is lower than for the year as a whole (8 per cent), which confirms the existence of seasonal differences for imports and production.

(d) Conditions affecting imports

Considering the conditions in which imports take place and in view of the characteristics of the product, price is the key factor.

Accordingly, the annual average f.o.b. price of imports was around US\$0.755/kg. in 1998, ranging between US\$0.625 and 0.575/kg. for 1999 and January-November 2000 respectively; in particular, total prices for the European Union varied from US\$0.610/kg. in 1996 to US\$0.505/kg. in 1999 and US\$0.442/kg. in the first 11 months of 2000.

(e) Serious injury or threat of serious injury to the domestic industry

1. Like or directly competitive products

At this stage and on the basis of existing information, it was concluded that domestically produced canned peaches are like or directly competitive products with respect to imported products which are the subject of the application.

The Código Alimentario Argentino (Argentine Foodstuffs Code)² defines canned peaches as fruits of the species *Prunus pérsica* L., white or yellow in colour, both of which may be freestone or clingstone, cut into symmetrical halves, in slices or pieces, or whole with the stone, ripe, wholesome, clean and skinless, canned with a solution of nutritional sweeteners, hermetically sealed and subjected to industrial sterilization. They may be white or yellow, and different varieties may not be mixed in the same can. Pieces of each type must be whole; they must have their own aroma and flavour, and the only flavours and aromas that may be added to the liquid are those expressly permitted and declared on the label. The liquid covering the canned peaches is generally water or a solution of nutritional sweeteners.

It should also be pointed out that public information referring to canned peaches presented at international conferences of the sector – World Canned Deciduous Fruit Conference –, specialist food sector publications – Food News –, sectoral reports prepared by the embassies of the United States of America in the leading producer countries of canned peaches and, in addition the use of an international price for canned peaches in the Canned Fruit Accord or Agreement (CFA), do not differentiate between qualities or types of canned peaches. This also makes it possible to regard canned peaches as a food commodity which meets certain international specifications. Nevertheless, the investigation will undertake a more in-depth analysis.

² Hereafter referred to as CAA.

2. Domestic industry

The Commission analysed the information submitted by the Chamber of Industrial Fruit Production of Mendoza (CAFIM), which accounts for 100 per cent of domestic production of canned peaches and represents all the producing companies (referred to below as "the companies surveyed"), which constitute a major proportion of the domestic industry.

3. Situation of the domestic industry

In order to analyse the situation of the domestic industry, the following aspects were considered:

The processing industry shows a high level of integration, with domestic production for 2000 estimated at 65,600 tonnes, maintaining 1999 levels.

Overall domestic sales for 1999 peaked at 32,375 tonnes, while a 12 per cent decline in physical terms was estimated for 2000. In monetary terms, sales in 2000 show an estimated fall of the order of 25 per cent.

The volume of Argentine exports of canned peaches fell sharply in January-September 2000, for all destinations, with a lesser drop in f.o.b. dollar terms.

The production capacity of the companies surveyed shows 21 per cent growth in 1998, 13 per cent in 1999 and 2 per cent in 2000. The degree of utilization for the same group of companies stands at 78 per cent, with a reduction of two percentage points between 1999 and 2000.

The total number of employees in the area of production of the companies surveyed is a factor which introduces a substantial element of relativity, since some of the companies reported both permanent and temporary staff, so that a consistent aggregate number can therefore not be produced. With regard to productivity, the "physical product per employee" was analysed, which gave rise to the problem of temporary and permanent workers and the impossibility of determining trends, given that there were major variations in the indicator during this period.

A representative cost structure for all the companies analysed showed a decreasing trend in average unit cost values, falling by 11 per cent, 0.5 per cent and 1 per cent in 1998, 1999 and 2000, respectively. This was accompanied by a fall in average sale prices of 8 per cent, 0.3 per cent and 20 per cent for the same years, producing figures of 1.20, 1.25 and finally 1.01 in 2000 for the price/cost ratio, as an indicator of the specific profitability of the sector.

With regard to the evaluation of the net worth and financial situation of the companies surveyed, the fact that all of them are multi-product enterprises means that no very significant conclusions could be reached regarding the indicators of profitability, operations, liquidity and indebtedness. There was a drop in profitability and an increase in indebtedness in some companies, while in the remainder there was greater stability and even improvements in values. The Commission considered it inadvisable to undertake any analysis here, until the specific accounts of the sector have been analysed.

4. Opinion on the serious injury or threat of serious injury to the industry caused by imports

Since imports of canned peaches increased in a manner capable of producing serious injury or the threat of serious injury to the domestic industry, while net domestic production of exports has

nevertheless maintained its share in current consumption, this has been accompanied by a fall in sale prices, which have reached the level of the representative unit cost of the sector.

The foregoing, taken in conjunction with the estimated volume of stocks at the end of the 2000 period, especially in the countries of the European Union, plus an apparent discrimination in prices towards Argentina on the part of the chief EU producer – Greece, creates a situation which may be regarded as constituting a threat of injury caused by imports.

- (ii) Determining the existence of critical circumstances where delay would cause damage which it would be difficult to repair.

Canned peaches are a food commodity and therefore competition takes place almost exclusively through prices, with few possibilities for differentiating the product in terms of quality. In this context, worldwide production for the period 1999-2000 was estimated at a record 1,242,216 tonnes, an increase of 14 per cent compared with the previous period and almost 8,000 tonnes above the record registered in the period 1992-93. Worldwide exports reached the record level of over 600,000 tonnes, a 15 per cent increase compared with the previous year, also exceeding the record level of 1995-96. It is anticipated that global stocks will be 51 per cent above the figure for the previous period. These figures are due especially to the impact on the market of the exceptional harvest in Greece.

These circumstances have contributed to a decline in prices in the domestic market. The average f.o.b. price dropped 17 per cent in 1999, and even more sharply in 2000. Between January-November 1999 and January-November 2000, it fell again by 10 per cent. In this situation imports grew by 104 per cent between 1998 and 1999. Between January-November 1999 and January-November 2000 imports recorded a growth of 23 per cent by volume. In view of the fall in prices, the increase was less in terms of f.o.b. dollars.

At the same time, apparent consumption of canned peaches increased during 2000, with the share of imports staying at 11 per cent. This share of apparent consumption corresponded to a drop in prices for the domestic product, which are at the limit of covering costs. This trend shows that, because of the repeated drop in prices of imports, the domestic product will be unable to maintain its share in the short term.

Canned peaches are a highly seasonal product. In Argentina the period of greatest demand is the last quarter of the year and the first quarter of the following year. In the northern hemisphere, where 80 per cent of canned peaches are processed, the industrialization process takes place between July and September, while in the southern hemisphere that process occurs between December and March.

Imports of canned peaches from the northern hemisphere accelerate during the last quarter of each year, having a significant impact on prices paid to the domestic producer at the time the harvest of peaches for processing begins and contracts are concluded between producers and distributors. In this context, overproduction and the record harvest in the northern hemisphere in 2000 and the prices at which these peaches have been entering the domestic market are exerting strong downward pressure on domestic purchase prices, jeopardizing even the actual picking of the peach harvest. Figures for imports across the country indicate a sharp 10 per cent drop in the months of 2000 that were analysed, producing a 20 per cent fall in domestic product prices, which stood at slightly above cost price.

In addition to its highly seasonal nature, the production of peaches for canning is narrowly localized in Argentina. Production and processing are exclusively concentrated in the province of

Mendoza. The industry, with its two stages of production and processing, employs over 15,000 persons, representing 13.4 per cent of the rural population of the province. Women make up some 90 per cent of the workforce.

In view of the above factors, the Commission considers that the current situation constitutes "critical circumstances" within the meaning of Article 6 of the Agreement on Safeguards. If imports, irrespective of their origin, continue under current conditions, especially with respect to price, it would cause serious injury which it would be difficult to repair owing to changes in purchasing decisions by importers, supermarkets and wholesalers, and the consequent difficulty for local companies to conclude contracts with even minimal profitability. It is therefore estimated that this could cause the destruction of an important sector of domestic industry.
