

**ARGENTINA - MEASURES AFFECTING THE EXPORT OF
 BOVINE HIDES
 AND THE IMPORT OF FINISHED LEATHER**

**Report of the Panel
 WT/DS155/R***

*Adopted by the Dispute Settlement Body
 on 16 February 2001*

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I. PROCEDURAL BACKGROUND

1.1 On 23 December 1998 the European Communities requested consultations with Argentina pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter the "DSU"), Article XXII of the General Agreement on Tariffs and Trade 1994 (hereinafter the "GATT 1994") regarding an alleged de facto export prohibition maintained by Argentina on raw and semi-tanned bovine hides; an "additional VAT" of nine percent raised by Argentina on the import of products into its territory; and an

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"advance turnover tax" based on the price of the imported goods imposed on operators when importing goods into Argentina.¹

1.2 Consultations were held in Geneva 5 February 1999, but did not lead to a mutually satisfactory resolution of the matter. On 31 May 1999, the European Communities requested the Dispute Settlement Body (hereinafter the "DSB") to establish a panel pursuant to Article XXIII of the GATT 1994, and Article 6 of the DSU. The European Communities claimed that the export prohibition maintained by Argentina violated Articles XI:1 and X:3 (a) of GATT 1994 and that the "additional VAT" and the "advance turnover tax" were not in conformity with Article III:2 of GATT 1994.

1.3 At its meeting on 26 July 1999, the DSB established a panel pursuant to the request of the European Communities, in accordance with Article 6 of the DSU. In document WT/DS155/3, the Secretariat reported that the parties had agreed that the panel would have the standard terms of reference. The terms of reference are the following:

"To examine, in the light of the relevant provisions of the covered agreements cited by the European Communities in document WT/DS155/2, the matter referred to the DSB by the European Communities in that document and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements."

1.4 Document WT/DS155/3, "Argentina - Measures affecting the export of bovine hides and the import of finished leather," also reported that, on 31 January 2000, the Panel was constituted as follows:

Chairman: H.E. Ambassador Roger Farrell
Members: Mr. Victor Luíz do Prado
Mr. Sándor Simon

1.5 The United States reserved its rights to participate in the panel proceedings as a third party, and presented arguments to the Panel.

1.6 The Panel met with the parties 17 - 18 April 2000 as well as on 13 June 2000. It met with the third party on 18 April 2000. The Panel issued its interim report to the parties on 13 October 2000. The panel issued its final report to the parties on 17 November 2000.

¹ See WT/DS155/1.

II. FACTUAL ASPECTS (MEASURES ON EXPORT OF BOVINE HIDES)

A. *Scope of the Claim*

2.1 The European Communities requested the establishment of a Panel (WT/DS155/2) claiming that Argentina maintained a "de facto export prohibition on raw and semi-tanned bovine hides which is implemented in particular through the authorization granted by the Argentinean authorities to the Argentinean tanning industry to participate in customs control procedures of hides before export." The European Communities requested "the panel to consider that this export prohibition constitutes a breach of Article XI:1 of the GATT 1994.

2.2 In the legal argument in its first submission, paragraph 71, "the European Communities considers that Resolution 2235/96² which provides the tanning industry with the possibility to control the exportation of hides and skins constitute an export restriction in the sense of Article XI as it allows the tanning industry to enforce an export ban imposed by that industry on the slaughterhouses("frigoríficos").³ In paragraph 73 the European Communities continues: "The facts set out above clearly show that the authorization leads to a de facto export ban from Argentina on those bovine hides on which the Argentinean industry is interested in adding value, namely raw hides."

2.3 In paragraph 1 of its oral statement, the European Communities claims that the measure in question "effectively acts to restrict exports of raw bovine hides from Argentina." In its answer to question 1 by the Panel, the European Communities states that "this dispute is about Argentinean government restrictions on raw bovine hides."

B. *The Products Concerned: Production and Processing of Raw and Semi-Tanned Hides*

2.4 Bovine hides are a by-product of meat production. Each slaughter of a bovine animal results in the "production" of one hide. The value of one hide is about 5-10 percent of the animal's value.⁴

² Resolución No 2235/96 of 27 June 1996 (hereinafter "Resolution 2235").

³ In their submissions, the European Communities translates the Spanish word "frigorífico" as "slaughterhouse," while Argentina frequently refers to "meat-packing plant." For the purpose of this text, the term slaughterhouse is used as meaning also "frigorífico" and "meat packing plant."

⁴ Argentina, in footnote 39 to para. 76 of its first submission argues of a value of 5-8 percent. A study by UN/ECLAC quoted by Argentina in para. 19 of the first submission, as well as in reply to a question by the Panel, argues for "approximately 10 percent"; UN/ECLAC, "La industrialización del cuero y sus manufacturas en la Argentina: un cluster en desarticulación o un complejo desarticulado?" in the framework of the project "A Natural Resource-Cluster Development Strategy: Growth, Distributive and Environmental Implications," by Gustavo Lugones and Fernando Porta, page 7, July 1999.

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2.5 Raw, untanned, hides are mostly treated with salt so as to prevent decay during storage or during transport from the slaughterhouse to the tannery. Raw hides can also be dried or chilled to obtain a similar preservation effect. These treatments are either undertaken by the slaughterhouses, or the tanneries in cases where the tanneries pick up the hides from the slaughtering floor for processing.

2.6 Raw hides can be either "wholehides," or they can be split into "flesh split," i.e. the bottom split or reticular layer of the hide and "grain split," i.e. the upper portion of the hide (outside of the skin) which has been separated from the reticular or split layer.

2.7 Raw hides are usually purchased from slaughterhouses by specialised hides and skins traders, to be sold on to tanneries, or directly by the tanneries. There are cases where meatpacking plants and tanneries are integrated enterprises with the ability to process rawhides.

2.8 Leather tanning consists of several different operations and stages. Once they have entered a tannery, hides first undergo the so-called "liming process": they are cleaned while hair, flesh and other redundant fibres are removed from the hides' surface. During the subsequent process of tanning, raw hides and skins are transformed, through interaction with a tanning agent, into a durable material that serves as input for downstream sectors such as footwear,⁵ clothing, upholstery, handbags and other leather goods. During production, the hide undergoes several processes, each leading to a new stage of leather production. The tanning agent used for approximately 90 percent of world production, and also in Argentina, is chromium (for shoe, upholstery and garment leather production). Chrome tanning produces a type of semi-finished leather commonly referred to as "wet blue," due to its bluish coloration. The remaining 10 percent are vegetable tanned leather, used for shoe sole leather, belts and luggage.

2.9 Raw hides constitute the most important input in the leather production process. Generally, the raw hides used represent 50 to 60 percent of the production cost of finished leather products.

C. Production, Price, and Trade Figures of Raw Hides, Semi-Finished and Finished Leather

1. Production Figures for Raw Hides in Argentina

2.10 In the period from 1967-1971, Argentina had a cattle stock of about 49.8 million head.⁶ The number increased to a peak of 59 to 61 million head in 1977⁷ and declined steadily until it reached 50 to 52 million head in 1988. It remained stable at that rate until today, where Argentina's bovine livestock ranges between

⁵ Footwear accounts for 70 percent of the end-products for which raw hides are used.

⁶ Figures quoted from FAO - See Exhibit EC I-41.

⁷ The figures vary between from Exhibit EC I-20 (figures on slaughter, exports etc. provided by Argentinean authorities) to Exhibit EC I-41 (figures from FAO).