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## **International Microeconomics: Trade Dispute Case Study ‘USCOOL’**

### Introduction

The advent of bilateral trade talks started all before the general agreement on tariff and trade (GATT). Although the reciprocal tariff act of 1934, came into action after the smooth Hawley tariff act of 1930 as a result of the stock market crash. The reciprocal tariff act served as a negotiating model for GATT. GATT prompted countries to negotiate and reciprocate tariff reduction. The World Trade Organization (WTO) was formed in 1995 after 8 rounds of talk under GATT from 1947 to 1994 to discuss varying issues of trade. WTO was formed to provide an avenue to manage the new system of the agreement, platform to discuss trade issues and to settle trade disputes. During pre-WTO, the GATT Reports list had a list of disputes from 1947 to 1994. The first dispute resolved through GATT was in 1948. The consultation was about consular taxes in Cuba. The last request for consultation under GATT involved nine countries and USA. The consultation was about the amendments of the Tobacco Program in the U. S. Omnibus Budget Reconciliation Act of 1993. With the establishment of the WTO, there have been numerous disputes starting with Singapore complain against Malaysia in the January of 1995 involving the prohibition of imports of polyethylene and polypropylene. The dispute was later withdrawn in July 1995. The most recent dispute case was in December 2013 against European Union by Russian Federation about Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia.

In 2008, Canada and Mexico requested consultations (named dispute DS384 and 386) with the United States. The consultation was about United States' Country of Origin Labelling (COOL) requirements for beef and pork contained in the agricultural marketing act of 1946. This was amended by the farm bills of 2002 and 2008, and implemented by the USDA through its 2009 final rule on mandatory country of origin labelling. The final rules set requirements for covered commodities ranging from muscle cuts of beef (including veal), lamb, chicken, goat, and pork, ground beef, ground lamb, ground chicken, ground goat, and ground pork, wild and farm-raised fish and shellfish, peanuts, pecans, ginseng, and macadamia nuts that are not of USA origin. Commodities are labelled U. S. Origin if they are derived exclusively from animal;

- Born, raised, and slaughtered in the United States (including animals born and raised in Alaska and Hawaii and transported for a period not more than 60 days through Canada to the United States and slaughtered in the United States);
- Present in the United States on or before July 15, 2008, and once present in the United States, remained continuously in the United States.

Imported covered commodities for which origin has already been established as defined by this law (e. g., born, raised, slaughtered or grown) and for which no production steps or substantial transformation have occurred in the United States, shall retain their origin, as declared to U. S. Customs and Border Protection at the time the product entered the United States, through retail sale.

## **Canada and Mexico vs. USA**

The WTO's procedure for resolving trade quarrels under the dispute settlement understanding is vital for enforcing rules and ensuring that trade flows smoothly. Dispute comes up when there is a violation of the agreement a member country has with WTO. Canada first filed for consultation before Mexico requested to join in consultation about USA's violation of the Uruguay Round Agreements Act;

- Technical Barriers to Trade, TBT arts 2. 1 (national treatment), 2. 2 (unnecessary obstacles to trade), 2. 4 (international standards), 12. 1 and 12. 3 (Differential Treatment of Developing Country Members)
- And GATT Arts. III: 4, X: 3 (a) (national treatment) and XXIII: 1 (b) (non-violation nullification or impairment) (WTO 2013).

After the request for consultation, panel formation took place in November of 2009. The panel finding showed that USCOOL was inconsistent with the TBT 2. 1, 2. 2 and GATT Arts XXIII: 1 (b). USA appealed the panel resolution in March 2012. The Appellate Body upheld, albeit for modified reasons, the Panel's finding that the COOL measure was inconsistent with Art. 2. 1 because it accorded less favorable treatment to imported livestock than to like domestic livestock. The Appellate Body reversed the Panel's finding that the COOL measure violated Art. 2. 2 because it did not fulfil the objective of providing consumer information on the origin (Dispute Settlement summary).

## **What Next?**

A WTO Arbitrator on December 2012 determined the reasonable period for the implementation of Dispute Settlement Body recommendations and rulings in the US COOL dispute. Reasonable period for adoption of the panel

and appellate body reports was 10 months. This period expired on 23 May 2013 and Canada did not agree that the USA has fully implemented the ruling and recommendation. In its view, the changes were more restrictive and caused further harm. Compliant panel was set up in September 2013 at the request of Canada.

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