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WORLD TRADE ORGANIZATION

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Dispute Settlement Body
10 April 1997

MINUTES OF MEETING

Held in the Centre William Rappard
on 10 April 1997

Chairman: Mr. Wade Armstrong (New Zealand)

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1. European Communities - Duties on imports of grains
- Request by the United States for the establishment of a panel (WT/DS13/6)

The Chairman drew attention to the communication from the United States contained in WT/DS13/6.

The representative of the United States said that this dispute had a long history, and his country regretted that repeated requests for a panel to examine this matter had taken so much of the DSB's time. Due to the interpretations of the Dispute Settlement Understanding (DSU) given by certain delegations, the United States was left with no choice but to preserve its procedural rights. Therefore, it had repeatedly requested the inclusion of this matter on the DSB's agenda while simultaneously working toward its resolution. Currently the United States and the European Communities were making good progress to this end. In light of this progress, his delegation had been informed prior to this meeting, that the Communities would not be in a position to agree to the establishment of a panel at the present meeting. His delegation accepted this position and hoped that the progress to date would continue and that, at the next DSB meeting on 30 April when this request would appear on the agenda for the second time, the United States would be able to report that the matter had been settled and would withdraw its request.

The representative of the European Communities said that his delegation was somewhat confused by the procedural changes made by the United States with regard to this matter, and was reflecting on the implications thereof. The Communities had worked with the United States to resolve this matter and it was his understanding that a solution was within sight so that, at the next DSB meeting, it would be possible to report to that effect.

The DSB took note of the statements and agreed to revert to this matter at its next meeting to be held on 30 April.

2. United States - Import prohibition of certain shrimp and shrimp products
- Request by India for the establishment of a panel (WT/DS58/8)

The Chairman recalled that the DSB had considered this matter at its meeting on 20 March 1997, and had agreed to revert to it. This item was on the Agenda of the present meeting at the request of India. He drew attention to document WT/DS58/8 which contained India's request for the establishment of a panel.

The representative of India reiterated his country's request for a panel to examine the US import prohibition of certain shrimp and shrimp products. He recalled that this request had been made at the DSB meeting on 20 March. In accordance with Article 6 of the DSU his delegation requested that a panel be established at the present meeting.

The representative of the United States said that because the issues raised in India's request were among those covered in the request by Malaysia and Thailand, and in the subsequent request by Pakistan, his delegation believed that the same panel should consider the matters raised by all four countries. Therefore, the DSB should agree to establish a panel as requested by India at the present meeting in accordance with Article 6.1 of the DSU, and pursuant to Article 9.1 of the DSU, this panel should be consolidated with the Panel already established at the requests of the above-mentioned countries.

The representative of India welcomed the United States agreement to establish the panel at the present meeting. His delegation agreed with the US proposal concerning the consolidation of the panels pursuant to Article 9.1 of the DSU, on the understanding that the same terms of reference of the Panel established at the requests of Malaysia, Thailand and Pakistan would apply in this case.

The DSB took note of the statements and agreed to establish a panel as requested by India with standard terms of reference, and that pursuant to Article 9 of the DSU in respect of multiple complainants, the Panel established on 25 February 1997 to examine the complaints by Malaysia, Thailand and Pakistan would also examine India's complaint as contained in WT/DS58/8.

In addition to those delegations that had reserved their third-party rights to participate in the Panel established at the requests of Malaysia, Thailand and Pakistan[1], the representative of Venezuela reserved his Government's third-party rights to participate in the Panel proceedings.

[1]Australia, Colombia, Costa Rica, Ecuador, the European Communities, Guatemala, Hong Kong, India, Japan, Mexico, Nigeria, the Philippines, Senegal, Singapore, and Sri Lanka. After the meeting El Salvador reserved its third-party rights to participate in the Panel proceedings.

3. Australia - Measures affecting importation of salmon
- Request by Canada for the establishment of a panel (WT/DS18/2)

The Chairman recalled that the DSB had considered this matter at its meeting on 20 March 1997 and had agreed to revert to it. It was on the Agenda of the present meeting at the request of Canada. He drew attention to document WT/DS18/2 containing Canada's request for the establishment of a panel.

The representative of Canada said that at the DSB meeting on 20 March, Australia had not agreed to join the consensus to establish a panel with regard to some of its measures affecting the importation of salmon. Canada continued to view these measures as unjustified and inconsistent with Australia's obligations under the WTO Agreement. Therefore, for the second time, her delegation requested that the DSB establish a panel with standard terms of reference as set out in Article 7 of the DSU.

The representative of Australia recalled his delegation's statement made at the DSB meeting on 20 March. Australia regretted that Canada had proceeded towards a panel without undertaking a discussion on the December 1996 salmon import risk assessment. His delegation needed further time to assess the question of standard or special terms of reference for the panel and therefore it wished to take advantage of the 20-day period allowed under Article 7.1 of the DSU.

The representative of Canada said that, as mentioned at the previous DSB meeting, her delegation considered that Canada had demonstrated a great deal of patience with regard to this matter. The restrictive measures in question were still in force without any possibility of resolving this dispute. Therefore, Canada was requesting a panel for the second time. The Australian statement was the first indication for Canada that there might be an issue with respect to the adoption of the standard terms of reference for this panel. Australia had not provided Canada with any substantive reasons why it could not accept the standard terms of reference. Proceeding in this manner was certainly not the most efficient use of the dispute settlement system nor of the DSB's time. Her delegation continued to believe that the panel should have the standard terms of reference.

The DSB took note of the statements and agreed to establish a panel in accordance with the provisions of Article 6 of the DSU, it being understood that, if the parties could not agree on the terms of reference for the Panel, the standard terms of reference as provided for in Article 7.1 of the DSU would apply.

The representatives of the European Communities and the United States reserved their third-party rights to participate in the Panel proceedings.[2]

4. United States - Restrictions on imports of cotton and man-made fibre underwear
- Statement by the United States

The representative of the United States, speaking under "Other Business", recalled that his delegation had informed the DSB at its meeting on 20 March 1997 that it intended to meet its obligations under the WTO Agreement with respect to this matter.[3] He confirmed that the measure at issue had expired without extension on 28 March 1997. The United States was thus meeting its obligations under

[2]After the meeting India and Norway reserved their third-party rights to participate in the Panel proceedings.

[3]The DSB adopted the Appellate Body Report and the Panel Report on "United States - Restrictions on Imports of Cotton and Man-made Fibre Underwear" at its meeting on 25 February 1997 (WT/DS24/8).

the WTO Agreement with respect to this matter. Accordingly, it was his authorities' understanding - an understanding that the United States trusted was shared by Costa Rica - that the matter before the DSB had been concluded, and that it would no longer appear on the DSB's agenda.

The representative of Costa Rica welcomed the US announcement on its compliance with the DSB's recommendations. However, Costa Rica was concerned with regard to a letter of 26 March 1997 from the US Government to its customs authorities, two days before the expiry of the quota referred to by the United States. This letter requested the monitoring of imports from Costa Rica of products falling within the textile category which had been the subject of the Panel Report, in anticipation of the establishment of a quota. He believed that it was important to have a clarification with respect to a possible re-establishment of the quota and he asked the United States for this clarification.

The representative of the United States said that the Costa Rican delegation had alerted his delegation in advance of the meeting of its Government's concern. He confirmed that the letter referred to by Costa Rica did not represent, nor should it be interpreted as an extension of the measure that had been examined by the Panel and the Appellate Body. That measure had expired definitively.

The representative of Costa Rica noted the explanation provided by the United States. His delegation agreed that the item concerning compliance with the recommendations on this matter would no longer appear on the DSB's agenda. However, he reserved the right to request the inclusion of this item on a future agenda if the restrictions referred to by the United States in the letter to its customs authorities were to be applied.

The DSB took note of the statements.