WORLD TRADE ORGANIZATION

RESTRICTED

WT/DSB/M/114
18 December 2001

(01-6378)

Dispute Settlement Body
5 December 2001

MINUTES OF MEETING

Held in the Centre William Rappard
on 5 December 2001

Chairman: Mr. R. Farrell (New Zealand)

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1. Argentina – Definitive anti-dumping measures on imports of ceramic floor tiles from Italy

(a) Implementation of the recommendations of the DSB

1. The Chairman recalled that in accordance with the DSU provisions the DSB was required to keep under surveillance the implementation of recommendations and rulings of the DSB in order to ensure effective resolution of disputes to the benefit of all Members. In this respect, Article 21.3 of the DSU provided that the Member concerned shall inform the DSB, within 30 days after the date of adoption of the panel or Appellate Body report, of its intentions in respect of implementation of the recommendations and rulings of the DSB. He recalled that at its meeting on 5 November 2001, the DSB had adopted the Panel Report in the case on "Argentina – Definitive Anti-Dumping Measures on Imports of Ceramic Floor Tiles from Italy".

2. The representative of Argentina said that, in accordance with Article 21.3 of the DSU, his country wished to inform the DSB of its intentions regarding the implementation of the DSB's recommendations and rulings in this case. He said that in order to implement, Argentina would need a reasonable period of time. His country had already entered into consultations with the EC and hoped to reach an agreement on the time-frame and modalities for implementation in this case.

3. The representative of the European Communities said that Article 21 of the DSU provided that Members should comply without delay with the DSB's recommendations. At the 5 November DSB meeting, the EC had stated that the number and gravity of the violations of the Anti-Dumping Agreement as well as the possibility for Argentina to withdraw its measure without a legislative action

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would call for an immediate withdrawal of the anti-dumping duties. Consultations with Argentina were underway in order to determine modalities for implementation and to terminate the application of anti-dumping duties. The EC hoped that these consultations would bring satisfactory results in the very near future.

4. The DSB took note of the statements, and of the information provided by Argentina regarding its intentions in respect of implementation of the DSB's recommendations.

2. United States – Preliminary determinations with respect to certain softwood lumber from Canada

(a) Request for the establishment of a panel by Canada (WT/DS236/2)

5. The Chairman recalled that the DSB had considered this matter at its meeting on 5 November 2001 and had agreed to revert to it. He drew attention to the communication from Canada contained in document WT/DS236/2.

6. The representative of Canada said that her country was requesting the establishment of a panel for the second time. She recalled that Canada's first request had been submitted at the 5 November DSB meeting, but the United States had not agreed to a panel at that time. Canada's claims concerning the preliminary countervailing duty and critical circumstances determinations made by the US Department of Commerce on 9 August 2001 with respect to certain softwood lumber from Canada, together with the expedited and administrative review provisions of US law, were set out in Canada's panel request. As previously stated, in Canada's view, these determinations and provisions of US law were inconsistent with a number of aspects of the United States' WTO obligations. Consequently, in accordance with the relevant provisions of the DSU, the GATT 1994 and the SCM Agreement, Canada wished to reaffirm its request for the establishment of a panel.

7. The representative of the United States said that her country was disappointed that Canada had chosen to move ahead with its panel request. As stated by Canada, the determinations of the US Department of Commerce were preliminary and subject to change. Therefore, in the United States' view, Canada's request for a panel was premature. The United States believed that the determinations of the Department of Commerce were fully consistent with the WTO obligations, and it would vigorously defend them before the panel.

8. The DSB took note of the statements and agreed to establish a panel in accordance with the provisions of Article 6 of the DSU with standard terms of reference.

9. The representatives of the European Communities and India reserved their third-party rights to participate in the Panel's proceedings.