WORLD TRADE ORGANIZATION

RESTRICTED

WT/DSB/M/110
22 October 2001

(01-5165)

Dispute Settlement Body
25 September 2001

MINUTES OF MEETING

Held in the Centre William Rappard
on 25 September 2001

Chairman: Mr. R. Farrell (New Zealand)

Subjects discussed: Page

1. Surveillance of implementation of recommendations adopted by the DSB 1

(a) European Communities – Regime for the importation, sale and distribution of bananas: Status report by the European Communities 1

2. Japan – Measures affecting agricultural products 4

(a) Mutually agreed solution between Japan and the United States 4

3. Appointment of Appellate Body members 6

4. Adoption of the 2001 Draft Annual Report of the DSB 9

5. Korea – Measures affecting imports of fresh, chilled and frozen beef 10

(a) Statement by Korea 10

1. Surveillance of implementation of recommendations adopted by the DSB

(a) European Communities – Regime for the importation, sale and distribution of bananas: Status report by the European Communities (WT/DS27/51/Add.21)

1. The Chairman recalled that Article 21.6 of the DSU required that "unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved". He drew attention to document WT/DS27/51/Add.21 which contained the status report by the European Communities on its progress in the implementation of the DSB's recommendations concerning its banana import regime.

2. The representative of the European Communities said that, as had been indicated at the previous DSB meeting, the EC had already started the preparation for the implementation of the second phase of the Understandings agreed with the United States and Ecuador, which should begin on 1 January 2002. Legislative work was being carried out with regard to the Council Regulation necessary to transfer 100,000 tonnes of bananas from quota C to B and to reserve quota C for ACP bananas, as provided for in the Understandings. However, such a modification would only be possible if and when the EC had obtained the relevant WTO waivers. Some Members had raised concerns about the move to a tariff-only regime in 2006 and discussions in this regard had already taken place

in the Council for Trade in Goods. The EC was ready to respond adequately to these concerns in the course of the examination procedure of the waivers. The EC regretted that the examination had not yet begun. It was clear that without prejudice to its rights, an Article XXVIII re-binding had to be a neutral operation in overall market access terms. Members should act quickly in order to avoid increasing divisions among countries and a possible blockage of all waiver requests to be submitted by Members. The EC hoped that the discussion which had already begun would unblock the examination procedure in order to settle the issue before the next Ministerial Conference.

3. The representative of Ecuador said that his delegation had noted the status report submitted by the EC. In that report, the EC had indicated that it continued to work actively on the legal instruments required for the management of the tariff-rate quota system governing its new banana import regime. The EC also stated that these legal instruments were in full compliance with the Understandings reached with Ecuador and the United States. In this respect, he recalled that, pursuant to Article 21.6 of the DSU, one of the functions of the DSB was to keep under surveillance the implementation of adopted recommendations or rulings. Therefore, in line with the practice at DSB meetings, Ecuador sought to ensure that such surveillance was indeed carried out with regard to the banana dispute. In Ecuador's view, the Understanding signed with the EC represented a delicate balance between conflicting views and interests. This balance, which was the result of intense negotiations, should be respected. The EC had the greatest interest in maintaining this balance. For this reason, the implementation of this Understanding should reflect the elements agreed upon by the negotiating parties.

4. The reference by the EC to the legal instruments which were currently being drawn up included the Commission's proposal COM (2001) 477 Final for a Council Regulation to reform Council Regulation (EC) No. 216/2001 of 29 January 2001, amending Council Regulation (EEC) No. 404/93 on the common organization of the market in bananas. He wished to make some comments on the Commission's proposal, which had been submitted to the EC member States and to the European Parliament for consideration. First, the proposal transferred 100,000 tonnes from quota C to B and reserved quota C exclusively for ACP countries. However, it established a system of preferences for ACP countries which went beyond both the Council Regulation (EC) of 29 January 2001 and Annex V of the Cotonou Association Agreement "Trade Regime Applicable During the Preparatory Period". He noted that Article 1 of this Agreement mentioned only "exemption from customs duties". Second, Council Regulation (EC) No. 216/2001, which was currently in force, established a most-favoured-nation tariff of €75 per tonne for quotas A and B, whereas the proposal envisaged that imports from ACP countries would be subject to a zero duty for these quotas. In Ecuador's view, this failed to respect the balance reached in the Understanding. Third, the proposal reserved quota C exclusively for ACP countries at a zero tariff rate, as agreed with Ecuador and the United States. Furthermore, it intended to apply a tariff preference of €300 per tonne for imports originating in ACP countries, which resulted in a dual system of preferences which had never been agreed upon. In short, the Commission's proposal granted a zero tariff rate for all quotas, not merely quota C, and, a tariff preference of €300 per tonne which was not required under the Cotonou Agreement. This element constituted another imbalance with regard to the EC/Ecuador Understanding and raised serious doubts as to whether the EC had a real interest in putting an end to the banana dispute. Fourth, the EC should take advantage of the fact that negotiations on its current banana regime had been wrapped up five months ago and it now merely remained for the agreed provisions to be implemented. However, by introducing new elements, the EC was not only eroding the terms already negotiated, but was also seeking to obtain further advantages in negotiations, which had not yet begun, on the tariff level to be put into place in 2006. Fifth, the system of preferences proposed by the Commission jeopardized the EC Council decision, as stated in Article 1 of Regulation No. 216/2001, that a tariff-only regime would come into force "no later than 1 January 2006". This was because it attempted to prejudge the tariff level to be applied under this regime in accordance with negotiations pursuant to Article XXVIII of GATT 1994 and the decision that should be taken on this matter by the EC Council. Sixth, the EC and its member States should take care to ensure that the modifications which it was bound to make to its banana regime did not

affect the agreements signed with Ecuador and the United States nor did it go beyond either the Cotonou Agreement or the 29 January 2001 Regulation of the EC Council. Finally, Ecuador pointed out that it was necessary to maintain the negotiated balance. To achieve this and to resolve this dispute, the EC merely needed to take a decision to transfer 100,000 tonnes from quota C to B and to reserve quota C exclusively for ACP countries at a zero tariff rate. This was in line with the Understandings and in full compliance with the implementation requirements of the Cotonou Agreement since it would guarantee the market access conditions traditionally maintained by ACP countries.

5. The representative of Honduras said that his country regretted that the Understandings reached by the EC with the United States and Ecuador had failed to take into account the interests of Central American countries, such as Honduras. This was clear from the recent action taken by the EC Commission which, far from going in the direction of compliance with the Understandings, had merely confirmed that justice would not be done. As on previous occasions, Honduras wished to reiterate that the Understandings could constitute the appropriate means for settling the banana dispute, provided that the EC complied in good faith, taking into consideration the rights of all of the parties involved. Honduras had never objected to and was prepared to allow certain concessions. However, such concessions would only be possible when the recipients – who already benefitted from them – ceased to dictate conditions which merely exacerbated trade discrimination from which Honduras had always suffered. Honduras urged the EC to take into account its requests to ensure that its interests were safeguarded. This was the only way to guarantee a fair, balanced and lasting solution to this long-standing dispute.

6. The representative of the United States said that her country looked forward to the prospect of a resolution to this long-standing dispute and to the extent it could facilitate such a resolution it would stand ready to do so.

7. The representative of Saint Lucia said that some countries had stated that their interests had not been taken into account. However, it was the ACP countries that had a sense that their interests were being ignored and that only the interests of those countries who had a greater negotiating power were being taken into account. He was surprised at certain points raised by Ecuador and believed that some of them were meaningless. He recalled that Ecuador had stated that preferences for ACP countries would be greater and that the legislative proposals currently before the EC Parliament might go beyond the Cotonou Agreement. Ecuador had also referred to access to quotas A and B. He recalled that under the Cotonou Agreement, the ACP countries had been given duty-free access to these quotas. Therefore, he wondered if Ecuador was suggesting that in its negotiations with the EC, it had sought to deprive the ACP countries of their preferences. If that was the case it would have serious implications for ACP countries which had negotiated their preferences with the EC and which might now see them taken away due to negotiations of the EC with another country.

8. Another point was related to access to quota C, which was an autonomous quota currently at the level of 850,000 tonnes. The ACP countries were concerned that this access, which they had always enjoyed, had been negotiated away, but they had accepted the loss of 100,000 tonnes as "the price for peace". However, this loss would affect them severely. This was a benefit which non-preferential suppliers had obtained in order to settle this dispute. Furthermore, it had been suggested that there would be a tariff at the level of €300,000. If the autonomous quota was to be reserved for the ACP countries then a tariff, at any level, would be academic because only ACP suppliers would be able to access that quota and they could do so at a zero tariff level. Even if Ecuador wished to access that quota it would not get in at all. He was concerned that real issues were not being addressed and believed that the question of tariff arrangements after 2005 should not be discussed in the DSB. This could be done in other WTO bodies. There should be no confusion on this subject and only the issue submitted to the DSB for consideration should be addressed in order to make real progress.

9. The representative of Panama said that his delegation supported the statement made by Ecuador. In Panama's view the EC's proposal to solve this dispute constituted a step backwards. It noted the statement made by Saint Lucia but believed that the tariff and an exemption for quota C were not academic issues. If this was the case, it was difficult to understand the insistence on this additional tariff if the quota was going to be reserved and if the exemption to Article XIII were to be granted. This was not an academic point and the matter had been discussed with the EC as well as in bilateral discussions with other countries. In particular, Panama was concerned about the statement made by the EC that it could not meet its WTO obligations, unless it obtained a waiver. This seemed to be a contradiction in terms since a waiver was a way to avoid meeting commitments. The EC threatened to block other waivers while its request for a waiver did not meet procedural requirements. In other words, as it had done in the past, the EC accused other countries who suffered from discrimination of causing a systemic crisis while those countries were only trying to defend their rights. Panama urged the EC to comply with its obligations and to bear in mind the proposals made by Latin American countries.

10. The representative of Guatemala said that her delegation had noted the status report submitted by the EC. Guatemala called upon the EC to consider the procedures concerning the requested exemptions. Guatemala did not have any objection to the granting of preferences to other developing countries. However, it expected that its legitimate concerns would also be taken into account. Guatemala awaited any action from the EC in order to meet its commitments and wished that this item remain on the DSB agenda until the issue had been finally resolved.

11. The representative of Mexico said that the EC should respect its commitments and reiterated that his country would prefer a tariff-only system with a tariff set at such a level so as to allow access to the EC market.

12. The DSB took note of the statements and agreed to revert to this matter at its next regular meeting.

2. Japan – Measures affecting agricultural products

(a) Mutually agreed solution between Japan and the United States

13. The Chairman said that this item was on the agenda of the present meeting at the request of Japan.

14. The representative of Japan said that his country was pleased to note that this item had been placed on the DSB agenda for the last time. Japan and the United States had reached a mutually satisfactory solution on this matter with respect to conditions for the lifting of import restrictions on eight products, including apples. Japan and the United States had notified the DSB of their solution through a joint letter, dated 23 August 2001, which had been circulated in document WT/DS76/12 on 30 August 2001. Japan was currently in the process of completing its domestic procedure in order to implement the new quarantine methodologies agreed upon by the two countries. He then provided a brief outline of the agreement. On 31 December 1999, Japan had eliminated the varietal testing requirements described in the Panel Report as well as the "Experimental Guide" which had set forth those requirements.[1] Thereafter, Japan and the United States had held consultations on the new quarantine methodologies and had completed technical discussions in March 2000. With regard to the importation of apples and cherries from the United States, Japan had held a public hearing on 6 September 2001 and was about to complete the necessary steps for amending the relevant Ministry Ordinances.

[1] Notified in document WT/DS76/10, dated 10 January 2000.

15. As had been stated at previous DSB meetings, Japan's new methodologies would be applied in accordance with Article 2.3 of the SPS Agreement, which provided that "Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail". Thus, if an exporting country were to request Japan to lift the import restrictions on these eight products, Japan would hold consultations with that country on scientific and technical considerations in order to establish the necessary quarantine methodologies. In cases where an exporting country wished to adopt a methodology similar to the one to be applied to the United States, such a methodology would be adopted after scientific and technical examinations, if appropriate.

16. The methodologies agreed upon by Japan and the United States were as follows. The first was the so-called CT product monitoring method. Under this method, attainment of a specific level of gas concentration was verified by way of measuring the gas concentration for each and every fumigation prior to export. The second – an alternative to the first one – was the so-called CT product comparison method. Under this method, the variety subject to approval was fumigated under a condition identical to the one used for the variety that had already been approved and then the comparison was made for the difference in gas concentration levels. Since the details of the new quarantine methodologies were highly technical, Japan was ready to provide a more detailed explanation upon request. Thus, any Member wishing to obtain more information could contact Japan's authorities in Tokyo. Finally, he expressed his country's appreciation to all the parties involved in this matter for their efforts in resolving this dispute.

17. The representative of the United States said that her country was pleased that it had been possible to agree with Japan on its new fumigation procedures for the products at issue. The United States appreciated the cooperation that Japan had extended in developing these procedures. The United States considered this agreement to be an important step towards the realization of the benefits it was assured under the WTO Agreement with regard to access to Japan's markets for apples and other fruits. While it was an important step, it was only a step. The United States would be closely observing how these procedures were executed in practice. In addition, the United States expected that Japan would continue to bring a similarly cooperative approach to its handling of other restrictions applicable to these products.

18. The representative of Australia said that his country was pleased that a mutually satisfactory solution had finally been reached between Japan and the United States on this issue. Australia had previously expressed some concerns at the delay in implementation. Australia had an ongoing interest in exactly how the measures would be implemented and hoped that these would be applied in a genuinely non-discriminatory manner to the products of all Members. He said that there was continuing uncertainty about the application of the revised measures to other Members. Thus, if Australia had problems, it would take up Japan's invitation to raise them in Tokyo.

19. The representative of the European Communities said that the EC had noted the mutually satisfactory solution reached between the United States and Japan. The EC had participated as a third party in this dispute and, on several occassions, had expressed its concern over the long delays in reaching a satisfactory and SPS-consistent settlement. The EC noted Japan's detailed statement on the new fumigation procedures. The EC would undertake a thorough analysis of the new Japanese legislation and the arrangement between the United States and Japan in order to verify their consistency with the SPS Agreement. Full copies of the relevant Japanese legislation, the mutually satisfactory arrangement, if any, and detailed explanations from both parties would be required. With regard to the quarantine treatments provided in point 2 of the text of the mutually satisfactory solution, the EC wished to know if such treatments would apply automatically or if further negotiations would be needed before the import bans were lifted. The wording of point 2 seemed to entail no commitment for the lifting of import bans. It was the EC's position that import bans should not be prolonged indefinitely, if not justified. The EC stressed that the modifications of the mutually satisfactory solution had to apply *erga omnes* in conformity with Article 3.5 of the DSU. The EC

hoped that Japan and the United States shared its view. He said that the conditions of the agreed solution were without prejudice to the EC's rights under the WTO Agreement, including the interpretation of these rights. In particular, he reserved the EC's rights to examine the new conditions in detail to verify their conformity with the WTO Agreements.

20. The representative of Hungary said that her country welcomed the mutually agreed solution reached by Japan with the United States. Hungary, which had participated as a third party in this dispute, hoped that Japan would be ready to reach a similar agreement with Hungary concerning fruits and vegetables.

21. The DSB took note of the statements.

3. Appointment of Appellate Body members

22. The Chairman recalled that a fax had been despatched to all Heads of Delegation on 19 September 2001 relating to the Appellate Body appointments. It was the responsibility of the Selection Committee to make a recommendation to the DSB on the appointment of the three new Appellate Body members who were to replace Messrs. Claus-Dieter Ehlermann, Florentino Feliciano and Julio Lacarte-Muró, whose terms of office would expire on 10 December 2001. He noted that the Selection Committee comprised of the Chairpersons of the General Council, the Councils for Trade in Goods, Services and TRIPS, the Director-General and the Chairperson of the DSB. All 12 candidates had been interviewed with a common set of questions relating to the Appellate Body. In addition, interested delegations had been invited to share their views with the Selection Committee, and close to 60 delegations had done so either through oral dialogue or by sending their written views. There was no doubt in the view of the Selection Committee that all the 12 candidates were of excellent quality and most impressive. This meant that for the Selection Committee the task had been indeed challenging and all members of the Selection Committee, as had been mentioned in the fax to Heads of Delegation, wished to extend their full appreciation and gratitude to all the individual candidates who had presented themselves, and to express considerable appreciation to their respective governments. The Selection Committee had approached the matter with great care, consistent with the guidelines, rules and procedures laid down. After a full and extensive deliberation on all the candidates the Selection Committee had reached a firm consensus recommendation. As notified to delegations, the Selection Committee's recommendation was that the following persons be appointed to the Appellate Body: (i) Mr Luiz Olavo Baptista (Brazil); (ii) Mr John S. Lockhart (Australia); and (iii) Mr Giorgio Sacerdoti (European Communities). The Selection Committee shared a consensus view that these three outstanding individuals were highly qualified for appointment to the Appellate Body. In light of this consensus recommendation by the Selection Committee, he proposed that the DSB decide to appoint these three candidates to the Appellate Body for four years, as from a date to be fixed in the near future on which their contracts would commence. He proposed that this recommendation be agreed by the DSB and said that delegations would be free to make statements, if they wished, after the adoption of the recommendation.

23. The DSB so agreed.

24. The representative of Australia said that his country supported the Selection Committee's recommendation for the upcoming vacancies for the Appellate Body and thanked the Selection Committee for its work. Australia was pleased that such a number of high calibre candidates had been put forward for these vacancies. It was also pleased with the selection process. Australia believed that all Members should be pleased with the measures taken by candidates to meet with delegations and with the openness of the process. Australia congratulated the chosen candidates and believed that all three would make valuable contributions to the Appellate Body's work. Australia expressed its appreciation to the outgoing Appellate Body members. Individually and with their colleages, they had helped ensure that the Appellate Body had been firmly established as a key institution in the multilateral trading system.

25. The representative of Brazil said that his country wished to join Australia in supporting the decision taken by the DSB at the present meeting. It was important that the Selection Committee had reached its decision by consensus. Brazil was pleased with the transparent and correct manner with which the selection process had been conducted. It congratulated the newly appointed members and expressed satisfaction at the excellent contribution made to the Apellate Body by the outgoing members.

26. The representative of the European Communities said that the EC shared the views expressed by Australia with regard to the work done by the Selection Committee. The selection process was transparent and fair and the EC fully supported the recommendation. The EC noted with satisfaction that one of its candidates had been selected as a member of the Appellate Body. The EC had no doubt that, like others, he would make a particularly dynamic and constructive contribution to the proceedings of the Apellate Body, the role of which was essential to the functioning of the WTO. The EC was also satisfied with the two other appointees with whom it had had contacts and appreciated their legal competence. The Appellate Body was at present overloaded and, therefore, in order to ensure a harmonized transition and to avoid disturbance of its activities, it was essential to enable the outgoing members to continue to work as long as possible, in accordance with a well-established practice.

27. The representative of Chile expressed his country's regret that its candidate had not been selected. Nevertheless, Chile considered that the Selection Committee had made its decision with wisdom. It congratulated the new members of the Appellate Body and wished them success in their work. Chile thanked the Selection Committee for its efforts to carry out an open and transparent process, which had made it possible to reach a decision expediously and by consensus. It expressed gratitude and recognition to the outgoing members of the Appellate Body.

28. The representative of India said that his country thanked the Selection Committee for successfully completing the difficult and delicate task of selecting three members of the Appellate Body. As indicated by the Chairman, the three persons had to be selected out of 12 outstanding and eminently qualified candidates. India congratulated the three successful candidates and thanked the three outgoing members for their dedication to the task which they had performed for the past six years. He recalled that in 1995 India had put forward a candidate for the Appellate Body who had not been selected. However, in 1999 another candidate proposed by India had been selected. Thus, India had gone through the pain as well as the pleasure of the selection process. He underlined that all Members attached importance to the selection of candidates on the basis of merit and integrity and had avoided politicization of the selection process.

29. At the present meeting, India wished to make two systemic observations. First, the Selection Committee had to achieve a balance in the composition of the Appellate Body concerning different types of experience and background, different systems of law, geography as well as a balance in terms of the level of development of countries. The exact number of developing and developed-country members varied from time to time. It was possible that during some periods, there would be more developed-country members compared to developing-country members and during some other periods the situation might be the other way around. Thus, the composition of the Appellate Body in terms of developed and developing-country members on the basis of the decision taken at the present meeting should not be viewed as some sort of fixed ratio in terms of representation. He recalled that during the 1999-2000 selection process, the then Chairman of the DSB had emphasized the point that the number of developing and developed-country members could vary from time to time, the primary consideration being merit and quality of the persons concerned.

30. The second systemic point related to the importance that his delegation attached to the opportunity of meeting candidates to enable delegations to assist the Selection Committee properly. It had been the tradition for candidates to make themselves available to Members. Therefore, it was important to have methods of ensuring that Members had full opportunity to interact with candidates.

One could even envisage some arrangements to ensure that Members could meet and interact with Appellate Body candidates. India believed that further reflection was required on this issue.

31. The representative of Thailand said that his country wished to congratulate the newly appointed Appellate Body members and thanked the Selection Committee for its difficult work. Thailand also thanked the outgoing Appellate Body members for their work.

32. The representative of Jamaica, speaking also on behalf of GRULAC countries, welcomed and congratulated the three newly appointed members of the Appellate Body, in particular the person put forward by Brazil. The countries in question were convinced that the new members would work to enhance the dispute settlement system as an essential element in providing security and predictability to the multilateral trading system. They thanked the outgoing members for their contributions. As the Appellate Body played an increasingly prominent and vital role in the work of the WTO, GRULAC countries recognized and underscored the continuing importance of the principles contained in Article 17.3 of the DSU.

33. The representative of Malaysia said that his country was disappointed that its candidate had not been selected. However, in Malaysia's view the selection process was fair and objective and, therefore, Malaysia acknowledged and accepted the outcome. Malaysia thanked the Selection Committee for the manner the selection process had been conducted and those delegations who had supported its candidate. It congratulated the newly appointed members of the Appellate Body and thanked the outgoing members.

34. The representative of Canada said that his country wished to thank the Selection Committee for its work and for the seriousness with which it had approached its task. Canada congratulated the three excellent candidates who had just been appointed and expressed its gratitude to the outgoing members of the Appellate Body. Canada looked forward to working with the new Appellate Body once it was constituted in December 2001.

35. The representative of the United States said that her country wished to acknowledge the excellence of all 12 candidates that had been nominated for Appellate Body membership, and particularly commended those delegations that had put forward their candidates. The process of meeting with candiates was helpful. The United States was pleased to join in favor of the appointments made at the present meeting. It agreed with the Selection Committee's view that these outstanding individuals were highly qualified for their appointment to the Appellate Body. The United States also thanked the members of the Selection Committee for their diligence in meeting the challenge of making their selection from such an outstanding group of candidates and formulating their recommendation in a timely manner. The United States recognized the contribution of the three outgoing Appellate Body members and thanked them for their years of distinguished service on the Appellate Body. As founding members of the Appellate Body, all Members owed them a particular debt of gratitude for their work in helping the institution develop into what it was now. The United States sought clarification as to whether the contracts of the three newly appointed members would start on the same date. This was particularly important in light of the difficulties that had been previously raised with regard to this matter.

36. The Chairman said that it was clear that all the candidates, including the three newly appointed members, were very readily available.

37. The representative of Colombia said that his country also wished to thank the Selection Committee for its work. Although its candidate had not been selected, Colombia supported the recommendation of the Selection Committee. In Colombia's view the points raised by India were relevant and required further reflection. Colombia considered that a discussion on ways of improving the process for selecting candidates and on the criteria to be used in a future selection process would be desirable.

38. The Chairman noted the statements made by delegations and expressed appreciation of the Selection Committee for the remarks that had been made in terms of the selection process. He underlined that it was important that the Selection Committee had adhered to the time-frame decided by the DSB. He thanked the three outgoing members of the Appellate Body who had acted so wisely and congratulated the three new appointees.

39. The DSB took note of the statements.

4. Adoption of the 2001 Draft Annual Report of the DSB (WT/DSB/W/170 and Add.1)

40. The Chairman said that in pursuance of the procedures for an annual overview of WTO activities and for reporting under the WTO contained in document WT/L/105, he was submitting for adoption a draft text of the 2001 Annual Report of the DSB in document WT/DSB/W/170 and Add.1. This report covered the work of the DSB since the previous report and had been prepared in accordance with the structure of the 2000 Annual Report. For practical purposes, the overview of the state of play of WTO disputes, covering the period from 1 January 1995 to 31 August 2001 prepared by the Secretariat on its own responsibility, was included in the addendum to this report. He proposed that following the adoption of the Annual Report at the present meeting, the Secretariat be authorized to update this Report under its own responsibility in order to include actions taken by the DSB at the present meeting. The updated Annual Report of the DSB would then be submitted for consideration by the General Council at its meeting on 23 October. He noted that certain comments of a technical nature had been received concerning the Annual Report and its addendum. These comments and any others that might be received from delegations would be duly taken into account in the final version of the Report.

41. The representative of Ecuador drew attention to a typographical error on page 6 of the addendum.

42. The representative of the European Communities said that his delegation wished to make the following revisions. First, given that the EC was assuming the international responsibilities in the case on "Belgium – Administration of Measures Establishing Customs Duties for Rice" (WT/DS210), the reference to this case in the Annual Report should be transferred from sub-item (b) concerning Belgium to sub-item (g) which covered all the cases involving the European Communities.[2] Second, the EC noted that neither the Annual Report nor its addendum contained references to the notification of a mutually agreed solution submitted by the European Communities in the case on "European Communities – Regime for the Importation, Sale and Distribution of Bananas" (WT/DS27/58). The EC requested that this be corrected on page 24 of the Annual Report and on page 6 of the addendum.

43. The representative of Ecuador said that if the rectification requested by the European Communities with regard to document WT/DS27/58 were to be made, it should be kept in mind that Ecuador had also submitted a communication on this matter.

44. The Chairman said that those delegations who wished to make further comments could do so by directly contacting the Secretariat.

45. The DSB took note of the statements and adopted the draft Annual Report contained in WT/DSB/W/170 and Add.1 on the understanding that it would be further updated by the Secretariat, as proposed by the Chairman.

[2] Subsequent to the meeting, the representative of the United States pointed out that the suggested change would be inaccurate as the request was directed to Belgium.

5. Korea – Measures affecting imports of fresh, chilled and frozen beef

(a) Statement by Korea

46. The representative of Korea, speaking under "Other Business", said that his country was pleased to announce that the DSB's rulings and recommendations in the case on "Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef" (WT/DS161; WT/DS169) had been implemented by 10 September 2001: i.e. within the reasonable period of time. The beef import system operated by Livestock Products Marketing Organization and under the Simultaneous Buy/Sell regime had been abolished on 29 December 2000 by revising the "Management Guideline for Imported Beef" (Ministry of Agriculture Notification 2000-82). In addition, the dual retail system for beef had been eliminated on 10 September 2001 by abolishing the above-mentioned "Management Guideline for Imported Beef" (Ministry of Agriculture Notification 2001-54). Thus, Korea considered that it had fully implemented the DSB's recommendations and rulings in this case.

47. The representative of Australia said that his country was pleased that Korea had taken action to remove the restrictions on retail outlets for imported beef. Australia was currently examining Korea's implementing measures and reserved its WTO rights.

48. The representative of the United States noted that the reasonable period of time for Korea to implement the DSB's recommendations and rulings in this case had expired on 10 September 2001. Prior to the dispute settlement proceedings in this case, Korea had maintained restrictions on the importation, distribution and sale of imported beef for more than thirty years. These constraints had prevented the United States and other countries from fully participating in a rapidly expanding market. Thus, full compliance with the Panel and the Appellate Body reports, as adopted by the DSB, was critical for Members in order to obtain full market access to which they were entitled. On 7 September 2001, Korea had announced the adoption of measures, effective 10 September 2001, related to compliance with the DSB's recommendations and rulings. The measures addressed numerous discriminatory requirements and restrictions for imported beef, such as special handling, reporting and end-use provisions. The measures had also abolished the dual retail system for imported and domestic beef, which had resulted in imported beef being excluded from approximately 90 per cent of Korean stores selling beef. The United States welcomed Korea's timely enactment of these replacement measures to implement the DSB's recommendations and rulings. The United States would continue to work with Korea to ensure that the replacement measures result in full market access for US beef.

49. The representative of New Zealand said that his country had participated as a third party in this dispute, and noted the statement made by Korea. New Zealand joined other countries in welcoming that statement noting the implementation of measures to give effect to the DSB's rulings. In particular, New Zealand welcomed the dismantling of the dual retail system in Korea.

50. The representative of Canada said that his country had participated as a third party in this case and noted the statement made by Korea. Canada wished to reserve its rights to examine the full details of this plan and reserved its position on the WTO-consistency of the implementing measures until it had a chance to study them.

51. The DSB took note of the statements.