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WT/DSB/M/27

15 January 1997

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WORLD TRADE ORGANIZATION

DISPUTE SETTLEMENT BODY
3 December 1996

MINUTES OF MEETING

Held in the Centre William Rappard
on 3 December 1996

Chairman: Mr. Celso Lafer (Brazil)

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Prior to the adoption of the agenda, the United States withdrew its request for the establishment of a panel on "European Communities - Duties on Imports of Grains" contained in WT/DS13/2 and Add.1. It was understood that this withdrawal was without prejudice to the right of the United States to include this matter on the agenda of a future DSB meeting.

1. Adoption of the Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes (WT/DSB/RC/W/1)

The Chairman recalled that at the DSB meeting on 20 November 1996, Mr. Armstrong had reported on the results of negotiations on the Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes. At that meeting it had appeared that there was a consensus in favour of adoption of the Rules of Conduct circulated on 15 November 1996, in WT/DSB/RC/W/1. The DSB had therefore taken note of the consensus and had agreed to revert to this matter at the present meeting in order to formally adopt the Rules of Conduct. He then proposed that the DSB adopt the Rules of Conduct contained in document WT/DSB/RC/W/1.

The DSB adopted the Rules of Conduct contained in WT/DSB/RC/W/1.[1]

[1]Subsequently circulated as document WT/DSB/RC/1.

2. United States - Standards for reformulated and conventional gasoline
- Period of time for implementation of the DSB's recommendations

The representative of Venezuela, speaking under "Other Business", announced that the Governments of Venezuela and the United States had agreed that a reasonable period of time for the implementation of the DSB's recommendations on "United States - Standards for Reformulated and Conventional Gasoline" would be 15 months. Venezuela would have preferred to have a shorter period of time but was aware of the complexity of the US legislation in this area. This reasonable period of time would start retroactively from 20 May 1996, when the DSB had adopted the reports of the panel and the Appellate Body. It was the understanding of his delegation that as of the next meeting in January 1997, the DSB would begin monitoring the implementation of the recommendations.

The representative of the United States confirmed the information provided by Venezuela concerning the 15-month period for the implementation of the recommendations of the DSB and reminded Members that the reasonable period of time became effective six months ago. Therefore, at the first meeting of the DSB in January 1997, the United States would provide its status report on progress in the implementation in accordance with Article 21.6 of the DSU.

The representative of Brazil thanked the United States for having expressed its intention to comply with the provisions of Article 21.6 of the DSU and to report at the first DSB meeting in 1997, on progress in the implementation of recommendations of the DSB. He recalled that over six months had passed since the DSB had adopted the report of the Appellate Body and that almost two years had elapsed since Brazilian exports of gasoline to the United States had begun to be adversely affected by restrictions. Brazil had already presented its views regarding the reasonable period of time for the implementation of the recommendations. It considered that in this case, a 15-month implementation period was excessive which would not only result in further damage to Brazilian exporters, but would also set an unfortunate precedent for the dispute settlement mechanism. However, his Government duly noted that the maximum period of time for implementation of rulings provided for in Article 21.3 of the DSU would not be exceeded by the United States. Brazil would carefully review the report to be provided by the United States on progress in the implementation of the recommendations of the DSB. His delegation expected that, in accordance with Article 21.6 of the DSU, the issue of implementation would remain on the DSB's agenda until its resolution. Brazil also reserved its rights under Article 21.7 and 8 of the DSU.

The DSB took note of the statements.

3. Requests to be joined in consultations under Article 4.11 of the DSU

The representative of the European Communities, speaking under "Other Business", said that his delegation was concerned with the refusal by Indonesia to allow the Communities to be joined in consultations requested by Japan[2] and the United States[3] concerning Indonesia's measures affecting the automobile industry. Since the Communities had a substantial trade interest in these consultations he believed that it would be appropriate for the Chairman to consult with interested parties concerning this refusal. Furthermore he suggested that the Legal Affairs Division of the WTO Secretariat be invited to give its opinion on this matter during such consultations.

[2]WT/DS55/1

[3]WT/DS59/1

The representative of the United States said that his country supported the Communities' request for consultations on practices developed under Article 4.11 of the DSU.

The representative of Japan said that recently his country had faced two cases in which its requests to be joined in consultations pursuant to Article 4.11 of the DSU had been rejected without receiving any reasons from the requested parties why Japan's requests were not well-founded. Japan believed that it had the right to claim substantial trade interests in these cases. The rejections without any relevant reasons seriously risked to undermine the dispute settlement system which emphasised transparency through participation of third parties in the settlement of disputes. He therefore wished to draw attention of the DSB to these cases and requested that the Member which had refused Japan's request reconsider its position. He supported the Communities' proposal for the Chairman to hold consultations and for the Legal Affairs Division to provide its opinion on this matter.

The Chairman said that this matter would be taken up in consultations as requested by Members. From the systemic point of view there was no doubt that the role of third parties was an important aspect of the dispute settlement system. Aside from the specific question of "trade interests" there was also a general question related to the participation in consultations under Article 4.11 of the DSU which needed to be addressed and examined.

The DSB took note of the statements.