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WT/DSB/M/20

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WORLD TRADE ORGANIZATION

DISPUTE SETTLEMENT BODY
5 July 1996

MINUTES OF MEETING

Held in the Centre William Rappard
on 5 July 1996

Chairman: Mr. C. Lafer (Brazil)

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1. United States - Tariff increases on products from the European Communities

- Request by the European Communities for the establishment of a panel (WT/DS39/2)

The Chairman drew attention to the communication from the European Communities contained in WT/DS39/2.

The representative of the European Communities said that eight and a half years ago the United States had imposed unilateral measures which continued to be applied to a range of export products of the Communities amounting to over US$ 90 million. Consultations on this matter had been held

with the United States, and as indicated in WT/DS39/2 had failed to provide a solution to the problem. Therefore, the Communities had little choice but to seek the establishment of a panel to examine this matter. As indicated in the above-mentioned document, the Communities believed that the measures concerned were inconsistent with the United States' obligations under the GATT 1994 and under the DSU, namely Articles I, II and XXIII of GATT 1994 and Articles 3, 22, and 23 of the DSU. Furthermore, in the light of the consultations, the Communities had come to the view that the measures concerned were also inconsistent with the United States' obligations under Article XVI:4 of the WTO Agreement.

The representative of the United States said that, as mentioned in the request of the Communities, the origin of this action was the Communities' legislation imposing bans on the importation of meat treated with certain substances having a hormonal action. From 1985 to 1987, the United States had attempted to pursue its rights under the GATT and in particular under the Tokyo Round Agreement on Technical Barriers to Trade. The Communities had left the United States without recourse under the GATT 1947 system. After extensive delays, the selection of panelists in the dispute settlement action pursued by the United States with regard to the Communities' measures concerning meat and meat products[1], had been completed only three days ago. His authorities were now reviewing the situation in light of this development. Consequently, the United States was not prepared to agree to the establishment of a panel at the present meeting.

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

2. Proposed nominations for the indicative list of governmental and non-governmental panelists (WT/DSB/W/30).

The Chairman drew attention to document WT/DSB/W/30 containing additional names proposed by Members for inclusion on the indicative list of governmental and non-governmental panelists in accordance with Article 8.4 of the DSU. He proposed that the DSB approve the names contained therein.

The DSB so agreed.

3. European Communities - Trade description of scallops
- Mutually agreed solutions

The representative of Canada, speaking under "Other Business", wished to inform the DSB, on behalf of the European Communities, Chile and Peru, that mutually agreed solutions had been reached in both disputes regarding the Communities' trade description of scallops[2]. Details of the mutually agreed solutions would be notified to the DSB shortly.

The Chairman recalled his statement made at the DSB meeting on 24 April 1994, when he had stressed the importance of notifying to the DSB all mutually agreed solutions for the good operation of the dispute settlement mechanism.

The DSB took note of the statements.

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[1]WT/DS26.

[2]WT/DS7; WT/DS12 and 14.

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

The representative of Venezuela, speaking under "Other Business", said that since the DSB meeting on 19 June, the United States and Venezuela had been holding consultations aimed at determining, by mutual agreement and in conformity with Article 21.3 of the DSU, a "reasonable period of time" required by the United States to implement the recommendations adopted by the DSB on 20 May 1996. Article 21.3(b) of the DSU provided that the parties to the dispute should agree on the "reasonable period of time" for the implementation of the DSB recommendations within 45 days after the date of adoption of those recommendations. For transparency purposes, he wished to inform the DSB that both parties had considered it useful to extend this 45-day period for a few days with a view to reaching a mutually agreed decision on this matter in line with the spirit of the DSU. He hoped that shortly both Governments would be able to inform the DSB of the results of the consultations.

The representative of Brazil informed the DSB that his country was currently pursuing consultations with the US authorities on the question of the implementation of the DSB recommendations. Brazil hoped to be in a position to inform the DSB in a few days of the results of the consultations.

The DSB took note of the statements.

5. United States - Anti-dumping investigation regarding imports of fresh or chilled tomatoes from Mexico.
- Statement by Mexico

The representative of Mexico, speaking under "Other Business", informed the DSB that on 1 July 1996, Mexico had requested the United States to hold consultations with regard to the anti-dumping investigation on imports of fresh or chilled tomatoes from Mexico[3]. Since these products were perishable, Mexico had considered that the consultations in question should follow the dispute settlement proceedings for cases of urgency pursuant to the provisions of Article 4.8 and 4.9 of the DSU. These consultations would allow Mexico to provide its views on the incompatibility of the United States' investigation with its obligations under the Anti-Dumping Agreement. Furthermore, Mexico had noted with satisfaction the recent decision of the US International Trade Commission (ITC) to reject the request of Florida producers for the application of a safeguard measure against tomatoes and peppers from Mexico. His delegation hoped that as a result of the consultations and given the ITC's negative finding on injury, which implied the termination of the safeguard investigation, Mexican exports of tomatoes would not be affected by the anti-dumping investigation.

The DSB took note of the statement.

6. Curricula vitae of representatives to the WTO
- Announcement by the Chairman

The Chairman, speaking under "Other Business", said that the composition of panels had sometimes become a difficult and time-consuming process, in part due to the practice that citizens of Members whose governments were parties or third parties to the dispute normally did not serve on panels. As a result, the Secretariat had to look for qualified individuals from a limited number of countries in order to propose nominations for panels under Article 8.6 of the DSU. The indicative

[3]WT/DS49/1.

list of governmental and non-governmental panelists maintained by the Secretariat which had been considerably expanded in recent months had been useful for the selection process. However, it was still not sufficient to meet the growing demand for potential panelists.

Parties to a dispute often wished that Geneva-based WTO representatives serve on panels, partly because delegates knew each other well. However, for consideration by parties in their capitals, the Secretariat was frequently requested for up-dated or additional information on proposed panelists, including those based in Geneva. Such requests placed the Secretariat in a difficult position because it preferred not to contact a potential panelist until that person was acceptable to the parties. In order to alleviate these difficulties, the Secretariat would welcome that Members filed the curricula-vitae of Geneva-based representatives which might be invited to serve on panels. The intention was not to have new nominations for the indicative list of panelists but just to make available to the Secretariat the curricula-vitae of Geneva-based representatives for use during the consultation process on the composition of panels.

The DSB took note of the statement.

7. DSB report to the General Council for the Singapore Ministerial Meeting
   - Announcement by the Chairman

The Chairman, speaking under "Other Business", recalled that the General Council was expected to adopt its report to the Singapore Ministerial Conference at its meeting on 7 November 1996. In this connection, he proposed that the DSB submit a report which would basically follow the pattern of the report presented the previous year for the annual overview of the WTO activities. The report which would be of a descriptive and factual nature would also emphasize the effective functioning of the DSB. It would be circulated to the DSB in the autumn so that it might be considered and noted by the General Council at its meeting on 7 November.

The DSB took note of the statement.