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Dispute Settlement Body
10 July 2014

MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD
ON 10 JULY 2014

Chairman: Mr. Fernando De Mateo (Mexico)

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1 EUROPEAN COMMUNITIES – MEASURES PROHIBITING THE IMPORTATION AND MARKETING OF SEAL PRODUCTS

A. Implementation of the recommendations of the DSB

1.1. 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 that 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 18 June 2014, the DSB had adopted the Appellate Body Reports and the Panel Reports, as modified by the Appellate Body Reports, pertaining to the disputes on: "European Communities – Measures Prohibiting the Importation and Marketing of Seal Products" (DS400; DS401). He invited the European Union to inform the DSB of its intentions in respect of implementation of the DSB's recommendations and rulings.

1.2. The representative of the European Union said that the EU intended to implement the DSB's recommendations and rulings in these disputes in a manner that respected its WTO obligations. The EU was consulting internally on the options for so doing. The EU would need a reasonable period of time to comply with these recommendations and rulings. The EU stood ready to discuss this matter with Canada and Norway in due course, in accordance with Article 21.3(b) of the DSU. In that regard, a first meeting with Canada and Norway had already been held on 9 July 2014.

1.3. The representative of Canada said that her country thanked the EU for its statement regarding its intention to implement the DSB's rulings and recommendations and bring its measures into compliance with its WTO obligations. The EU had indicated that it would need a reasonable period of time to do so. Canada was ready to continue its discussions with the EU, together with Norway, in order to determine a period of time that would ensure the prompt settlement of the dispute and was satisfactory to all the parties to the dispute.

1.4. The representative of Norway said that his country thanked the EU for placing this item on the Agenda and for its statement made at the present meeting. Norway was pleased to hear that the EU intended to comply with the DSB's recommendations and rulings in this dispute and looked forward to the EU moving promptly to bring its measure into compliance with its obligations. Norway noted the EU's need for a reasonable period of time. As it had stated at the first meeting devoted to this issue on 9 July 2014, Norway stood ready to continue this discussion with the EU and Canada in accordance with Article 21.3 of the DSU.

1.5. The DSB took note of the statements, and of the information provided by the European Union regarding its intentions in respect of implementation of the DSB's recommendations and rulings.

2 RUSSIAN FEDERATION – MEASURES ON THE IMPORTATION OF LIVE PIGS, PORK AND OTHER PIG PRODUCTS FROM THE EUROPEAN UNION

A. Request for the establishment of a panel by the European Union (WT/DS475/2)

2.1. The Chairman drew attention to the communication from the European Union contained in document WT/DS475/2, and invited the representative of the European Union to speak.

2.2. The representative of the European Union said that the issue on which the EU was requesting the establishment of a panel was of very serious concern to the EU, both from a legal and from an economic perspective. Russia maintained an EU-wide restriction against imports of live pigs, pork and other pig products since January 2014. The restrictions, which had been applied since 27 January 2014, were based on four cases of African swine fever (ASF) detected in wild boar in Lithuania and Poland, close to the border with Belarus. Since then, the EU had demonstrated to Russia that all necessary measures to contain the further spread of ASF had been put in place immediately, and that EU products originating from the unaffected areas were safe. Therefore, there was no scientific reason to ban imports from the entire territory of the EU. As Russia had not adapted its measures to restrict trade from only the affected areas in the EU and maintained instead an EU-wide ban, on 8 April 2014, the EU had requested consultations with Russia, pursuant to Article 4 of the DSU. Those consultations had been held on 30 April and 1 May 2014 with a view to reaching a mutually satisfactory solution of the matter. Regrettably, the consultations had not led to a solution and the restrictions imposed by Russia remained in place. This was still the case to date. To put the economic dimension of the ban into perspective, in 2013 exports of pork from the EU accounted for €1.4 billion Euro or 24% of the EU's total pork exports. Russia was, or more accurately had been, the biggest export destination for pork from the EU. The EU had continued discussions with Russia, even beyond the consultations, in an effort to convince Russia to eventually adapt its measures in accordance with international standards. However, Russia refused to accept the measures adopted by the EU in accordance with the internationally recognized principle of zoning or regionalization. The Russian ban against the entire EU did not follow the recommendations developed by the World Organisation for Animal Health, nor was it based on a proper risk assessment. Furthermore, even though Russia had itself suffered numerous outbreaks of ASF since 2007, it did not apply similar protective measures in its own territory. By so doing, Russia discriminated between EU products and its own domestic products. It also treated EU products less favourably than those products imported from certain other trading partners by accepting imports from certain neighbouring countries even though those countries had also reported cases of ASF. To conclude, the EU was convinced that Russia was in breach of its obligations under the SPS Agreement and the GATT 1994. Under these circumstances, the EU requested the establishment of a panel, pursuant to Article 6 of the DSU.

2.3. The representative of the Russian Federation said that his country regretted that the EU requested the establishment of a panel at the present meeting. Russia had participated in the consultations requested by the EU in good faith with the intention of resolving this matter. The consultations had taken place in April and May 2014. With respect to the EU claims in this dispute, Russia was confident in the scientific justification behind the measures at issue. Those measures were in conformity with the relevant international standards and requirements and were not, in any way, discriminatory, taking into account the difference in the level of cooperation on ASF of its partners from the EU, Belarus and Ukraine. Moreover, Russia had not imposed a blanket ban on the products from the entire EU, only Lithuania and Poland. The allegations with respect to the import restrictions from the entire EU were a consequence of the insufficient cooperation by its EU partners. Specific measures had been adopted to achieve an appropriate level of sanitary protection considering the exceptional character of ASF, which had no cure to date, thereby

preventing enormous economic losses for the Russian Federation in the event of ASF transmission. Russia's position was strengthened by the recent cases of a spread of the ASF registered in Latvia. In light of the factual background of the claim and the changed situation in light of new cases of ASF in the EU territory, Russia believed that the matter should be resolved through consultations and extensive cooperation in finding a solution to the very complicated task of ASF surveillance and effective sanitary controls. Russia, as always, was ready to engage in such consultations with the EU constructively. However, Russia was also prepared to take further action under the DSU provisions. Therefore, Russia was not in a position to agree to the EU's request for panel establishment.

2.4. The DSB took note of the statements and agreed to revert to this matter.

3 STATEMENT BY THE CHAIRMAN REGARDING THE AB SELECTION PROCESS

3.1. The Chairman, speaking under "Other Business", said that, as he had announced at the outset of the meeting, he wished to make a statement regarding the ongoing Appellate Body selection process. He informed Members that the Selection Committee had met on 2 July 2014 to discuss the process and to agree on a time-table. Following the meeting of the Selection Committee, the Chairman had sent a fax to delegations regarding the agreed dates for the process, noting that interviews by the Selection Committee of all eight candidates would be held on 22 July 2014 in the afternoon and on 23 July 2014, morning and afternoon. Subsequently, on 9 and 10 September 2014 (Tuesday and Wednesday), the Selection Committee would meet, upon request, with interested delegations who wished to express views on the candidates. As had been explained in the fax, delegations wishing to meet with the Selection Committee were invited to contact the Secretariat, the CTNC Division, to make an appointment. Alternatively, delegations may send comments in writing to the Chair of the DSB, in care of the CTNC Division, by no later than 10 September 2014. Delegations wishing to meet the candidates were invited to do so by directly contacting the Missions of the respective candidates. The Secretariat would not make any arrangements for such meetings. In that regard, Members should not expect to meet candidates in capitals. As had been agreed by the DSB, following the interviews and consultations with delegations, the Selection Committee would make a recommendation not later than 15 September 2014, which would be sent by fax to delegations to be considered by the DSB at its meeting on 26 September 2014.

3.2. The DSB took note of the statement.

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