WORLD TRADE ORGANIZATION

RESTRICTED

WT/DSB/M/43
8 April 1998

(98-1444)

Dispute Settlement Body
13 March 1998

MINUTES OF MEETING

Held in the Centre William Rappard
on 13 March 1998

Chairman: Mr. Kamel Morjane (Tunisia)

Subjects discussed: Page

1. Election of Chairperson 1

2. Turkey - Restrictions on imports of textiles and clothing products 2
   - Request for the establishment of a panel by India 2

3. European Communities - Measures concerning meat and meat products (hormones) 7
   - Implementation of the recommendations of the DSB 7

4. India - Quantitative restrictions on imports of agricultural, textile and industrial products 10
   - Statement by the United States 10

Mr. W. Lavorel, Deputy Director-General, recalled that in accordance with the Rules of Procedure if the Chairperson of the DSB was absent from any meeting or part thereof, the Chairperson of the General Council, and in the latter's absence, the Chairperson of the Trade Policy Review Body (TPRB), should perform the functions of the DSB Chairperson. He informed Members that both Mr. W. Armstrong, Chairman of the DSB and Mr. J. Weekes, the newly elected Chairman of the General Council, were absent from Geneva. Mr. M. Akram, current Chairman of the TPRB, who was also absent from Geneva, had requested him to propose that Mr. C. Lafer chair the meeting until the election of the new Chairperson.

The DSB so agreed.

1. Election of Chairperson

Mr. C. Lafer recalled that at its meeting on 19 February 1998, the General Council had taken note of the consensus on a slate of names for chairpersons to a number of WTO bodies, including the DSB. On the basis of the understanding reached by the General Council, he proposed that the DSB elect Mr. Kamel Morjane (Tunisia) as Chairman of this body by acclamation.

The DSB so agreed.

Mr. Lafer invited Mr. Morjane to preside over the proceedings of the meeting.

Mr. Morjane thanked Members for the expression of their confidence in him. He considered that this was a recognition of policies of tolerance and moderation pursued by his country as well as its commitment towards globalization and the opening of the economy. He wished to ensure Members of his full cooperation and hoped he would receive their support and understanding. He looked forward to the continued support of the Secretariat.

2. Turkey - Restrictions on imports of textiles and clothing products
- Request for the establishment of a panel by India (WT/DS34/2)

The Chairman recalled that the DSB had considered this matter at its meeting on 13 February 1998, and had agreed to revert to it at the present meeting. He then drew attention to the communication from India contained in document WT/DS34/2.

The representative of India recalled that his country's request for the establishment of a panel to examine this matter had first been made at the DSB meeting on 13 February. At that meeting, Turkey had indicated that it was not in a position to join the consensus on the establishment of this panel. Therefore, pursuant to the provisions of Article 6.1 of the DSU, India requested that the DSB establish a panel at the present meeting to examine the unilateral imposition by Turkey, effective 1 January 1996, of quantitative restrictions on imports of a broad range of textiles and clothing products from India. His delegation requested that the panel be established with standard terms of reference in accordance with the provisions of Article 7 of the DSU.

The representative of Turkey said that prior to addressing some of the issues regarding India's complaint, he wished to clarify one point which had been raised by India on various occasions. India had made references to Turkey's restrictive trade measures, in particular with regard to textiles and clothing. In his view, these statements could have led to certain misconceptions with regard to Turkey's trade policies which he wished to correct. He stated that during the past three years, since the establishment of the Customs Union, the pace and scope of Turkey's trade liberalization had been unprecedented. He believed that no other developing country had implemented, in such a short period of time, equivalent comprehensive and profound policy changes which provided more favourable and open access to world competition. Turkey had taken several measures in many areas in the process of the establishment of the Customs Union. However, he only wished to outline the following points: (i) with the adoption by Turkey of the EC Common Customs Tariff, the average rate of Turkey's customs duties vis-à-vis third countries had been reduced from 18 to 5.6 per cent. These rates would be further reduced to 3.7 per cent; (ii) the reduction in the rates of protection on textiles and clothing had been even more significant since on average, these rates had been reduced from 37 to around 9 per cent in 1996; (iii) all subsidies in the textile and clothing sector had been eliminated; (iv) the level of imports reflected the improved market access conditions in Turkey. During the first year of the existence of the Customs Union, overall imports had increased by more than 20 per cent; (v) India's exports to Turkey had increased from US$110 million in 1994, to US$255 million in 1996 while, during the same period, its imports from Turkey had decreased from US$78 million to US$59 million; (vi) with regard to Turkey's textile quotas, he noted that none of the textiles and clothing categories which were subject to quantitative restrictions had been fully utilized by any exporting country. In the case of India, textile and clothing quotas had been underutilized in both 1996 and 1997.

At the DSB meeting on 13 February, he had outlined his delegation's position with regard to India's complaint. He had stated that consultations with India could not have been held due to its

refusal to recognize the European Communities as a party to this dispute. At that meeting, Turkey and the Communities had underlined that India's complaint should have been addressed to both parties of the Customs Union because the measures in question had resulted from joint decisions by Turkey and the Communities. He did not wish to reiterate in detail his statement at the present meeting, but wished to emphasize that Turkey continued to maintain its position.

The Secretariat had been notified of the Customs Union in a joint communication from Turkey and the Communities on 22 December 1995 (WT/REG/22/N/1). The EC-Turkey Association Council Decision establishing the Customs Union had been notified jointly to the Secretariat on 13 February 1996 (WT/REG/22/1). This Decision had been taken jointly by the two parties to the Customs Union and as a result Turkey now applied the Communities' commercial policy. He drew attention to Article 12 of the Decision which reflected these points and read as follows: "From the date of entry into force of this Decision, Turkey shall, in relation to countries which are not members of the Community, apply provisions and implementing measures which are substantially similar to those of the Community's commercial policy set out in the following Regulations". He noted that Council Regulation (EC) No. 3030/93 (textile imports under common rules) was specifically mentioned among those regulations. The joint responsibility of Turkey and the Communities under the Customs Union was also noted in other instances regarding the WTO procedures. He reiterated that the establishment of the Customs Union had been notified jointly to the Secretariat. The discussions in the Committee on Regional Trade Agreements on the Customs Union had taken place with the full participation of both parties. The textile quotas had been notified jointly to the relevant bodies by the two parties (WT/REG/22/7).

While the joint responsibility of Turkey and the Communities under the Customs Union was recognized in the WTO, for reasons that were difficult to understand, this was not acknowledged by one Member. His delegation believed that the DSB should address this issue to enable the panel to have all the facts during its consideration of this matter. In accordance with Article 7.3 of the DSU, his delegation also wished to request the DSB to authorize its Chairman to draw up special terms of reference for the panel in consultations with the parties to the dispute. In this context, he drew Members' attention to Turkey's proposal on special terms of reference for the panel which was circulated in the room. His delegation continued to hope that it would be possible to reach an amicable solution to this dispute with India.

The representative of the European Communities said that as he had stated at the DSB meeting on 13 February, Turkey's textile regime was a direct result of a joint decision by the EC-Turkey Association Council implementing the final phase of the Customs Union which had replaced the previous separate customs territories of the two partners with a single customs territory. As a result, Turkey's textile regime had been brought in line with that of the Communities, in order to meet the criteria for a customs union contained in Article XXIV:8 of GATT 1994. This meant, *inter alia*, the application of substantially the same duties and other commercial regulations regarding trade with third countries. The Communities considered that in establishing the Customs Union, the parties had respected their obligations under Article XXIV of GATT 1994. He noted that this matter was currently under examination by the Committee on Regional Trade Agreements (hereafter referred to as the Committee).

It was evident that India's complaint concerned the Customs Union, not only Turkey. However, from the beginning, India had denied the Communities and Turkey any possibility to defend their common policies as the Customs Union. India had requested consultations under Article XXIII of GATT 1994 with the objective of excluding the Communities. It had never accepted to hold discussions with Turkey and the Communities together. India had also ignored the ongoing examination by the Committee. One could claim that, rather than question the Turkish measure, India's objective was to influence the Communities' policies or to set a precedent regarding future policies. It was not understandable how this approach was conducive to an amicable settlement of this dispute, and he questioned whether it was in conformity with the spirit of the DSU and the

obligation under Article 3.10 of the DSU. This matter was of serious concern to the Communities which considered that their rights of due process under the DSU had not been respected and this was not acceptable.

It was difficult to understand what advantage India believed it could gain by excluding the Communities. Any change affecting the Customs Union could only be decided jointly by Turkey and the Communities. He noted that paragraph 12 of the Understanding on the Interpretation of Article XXIV of GATT 1994 recognized that the dispute settlement provisions could be invoked in respect of customs unions. In the view of the Communities, this meant that since India's complaint concerned an essential element of the Customs Union, both parties should have been addressed therein. At the DSB meeting on 13 February, it had been indicated that India's approach of singling out Turkey was unsatisfactory. Some of the arguments made at that meeting were contained in a letter sent to the Chairman for circulation to DSB members.

The points made by the Communities and Turkey had demonstrated that a number of problems -- both political and legal -- were involved in this complaint as formulated and pursued by India. At this stage, and prior to any decision by the DSB, he wished to put forward a number of questions for further consideration: (i) a customs union meant the substitution of a single customs territory for two or more separate territories. In the light of that, was it legally correct to initiate a complaint against only one member of a customs union when trade policies and measures applied to the unified customs territory? (ii) if a panel were to conclude that the restrictions were not justified under the WTO provisions, then would this not have a legal effect on the situation of the Customs Union, and on both parties thereto? (iii) was it legally correct for a panel to recommend changes, either to a policy or to specific measures, which would affect the rights of the Communities -- since new decisions would have to be taken -- if the Communities had not been able to participate fully in the panel's proceedings? (iv) Article 3.2 of the DSU stated that "recommendations and rulings of the DSB cannot add to or diminish the rights and obligations provided in the covered agreements", including the GATT 1994. How could the DSB adopt any panel's conclusions which would affect the Communities and be consistent with this provision? (v) could the DSB and the panel ignore the fact that a parallel process had been initiated in the Committee, which had the specific task of considering further interpretations of Article XXIV of GATT 1994, and would also examine the conformity of the Customs Union with the WTO provisions, and the fact that both parties to the Customs Union would defend the agreement in the Committee?

He raised these questions in order to draw attention to certain legal uncertainties involved in this case, which the DSB would have to take into account if it was to act responsibly. It would not be useful to be guided only by a strict reading of the DSU procedures and to discover later serious legal defects in the decision made or in the enforcement of findings and rulings. The text of the DSU did not appear, at this stage of the procedures, to permit the re-establishment of the rights for all the parties involved that should have been available to them from the beginning, as members of the Customs Union. However, the DSB could decide, on a consensus basis, not to establish a panel and to invite India to enter into consultations with both parties to the Customs Union, in accordance with the principle contained in Article 3.10 of the DSU. In the view of the Communities, this was the only way to proceed. In the absence of a consensus on this proposal, the DSB would have to establish a panel at the present meeting. However, since India had limited its complaint to Turkey, the Communities' rights and obligations under the WTO Agreement could not be affected by the rulings in this case in accordance with general principles of public international law.

He believed that Turkey and the Communities had put forward a number of substantial arguments, in a detailed manner, which had not yet been examined or discussed by Members. Members should have the time to carefully examine the text of the Customs Union's decision regarding Turkey's future policy in the textiles sector, which had been circulated at the present meeting. He fully supported the points made in respect of that decision and its bearing regarding this

case. Delegations might also wish to examine other texts that had been circulated at the present meeting. In the view of the Communities, it would be reasonable to enable Members to reflect on this difficult problem. The Chairman might also consider it appropriate to hold informal consultations with various interested parties. Since the DSU provided for a decision at the present meeting, this discussion could be adjourned for a short period of time, two or three days, to allow for such reflection and consultations.

The representative of India said that the basis regarding his country's request for a panel was contained in document WT/DS34/2. With regard to Turkey's comment that the measures had been taken jointly by the Communities and Turkey, he pointed out that under Article 3.3 of the DSU, India had the right to identify the Member whose measure, in its assessment, had impaired benefits accruing to it. The measure in question had been imposed by Turkey and therefore India had invoked dispute settlement procedures against Turkey. He also drew attention to Article 3.8 of the DSU which stated that where there was an infringement of the obligations assumed under a covered agreement, the action was considered, *prima facie*, to constitute a case of nullification or impairment. Therefore, the existence of the quotas was *ipso facto* an infringement of Turkey's obligations. With respect to the request for special terms of reference, he reiterated that India's position was to seek standard terms of reference pursuant to Article 7.1 of the DSU and his delegation could not agree to special terms of reference. With regard to the Communities' proposal to adjourn the meeting, he pointed out that India's request for a panel was within the existing provisions of the DSU. The Communities could raise their arguments before the panel once they became a third party to this dispute. He reiterated India's request that a panel be established at the present meeting with standard terms of reference.

The representative of the European Communities said that they did not contest the right of India to make and pursue its complaint in accordance with the DSU provisions. However, the question was whether this complaint was legally correct. He noted that in the letter to the Chairman, it had been stated that the Communities believed that India's complaint against Turkey was fundamentally misdirected. Therefore, it would not be out of line with the procedures if the DSB did not take a decision right away as proposed by the Communities because the request for a panel had been incorrectly addressed only to Turkey. He believed that Members should be fully informed of the situation on which they had to take a decision. At this stage, a number of arguments had been made and some papers had been circulated which demonstrated that there was a problem. This problem was exceptional, namely, the Customs Union and its conformity with the WTO Agreement was questioned and only one party to the Customs Union was challenged. His delegation wished to ensure that the arguments made by Turkey and the Communities had been understood as well as problems of the Communities which were excluded from the procedures. He reiterated that the third-party status of the Communities in this dispute was inadequate. He questioned how the Communities could defend their situation if they would only be limited to one submission and could not participate in the panel's proceedings. India had stated that the Communities' arguments should be raised before the panel. He questioned how the Communities would be able to do this in a manner which would reflect their interest which thus far had not been taken into account. He recognized India's rights to proceed in this way but found it difficult to understand why it could not proceed differently in order to consider arguments and seek a solution which would take into account the Communities' position. The Communities had made various proposals which would enable them to become a full party in the panel. They did not seek to avoid the panel but to fully participate therein. He failed to understand why India did not agree to the proposal to adjourn the meeting. He hoped that India would agree to the proposed procedures, in an effort to find a solution which would enable the Communities to fully participate in the panel.

The representative of Turkey said that it was his understanding that India had not accepted Turkey's request for special terms of reference. He regretted that it had not been possible for his delegation to take up this issue with India in detail and to present its arguments. He could not see the reasons for India's lack of understanding. He asked India to reconsider its position and to engage in a constructive dialogue at least during the next 20 days in accordance with Article 7.3 of the DSU. The

representative of Turkey said that if a panel was established and if its rulings went against Turkey it would be difficult to implement necessary changes within the Customs Union because the policies and decisions in this regard had to be taken jointly with the Communities. If the Communities could not participate in the panel he could not see how it would be possible to persuade them that the panel's recommendations would be binding on them as well.

The representative of Mexico said that his delegation believed that under the DSU provisions it was possible to make a complaint against one member of a customs union if that member had taken a measure which was in a breach of its WTO obligations. However, the European Community was the only customs union recognized as a Member of the WTO. Other customs unions or free trade areas were not considered as Members. Therefore, the legitimacy of making a complaint against a member of the Customs Union could not only be considered in those cases which involved the Communities, the only entity that could act as a WTO Member. However, it was up to the complainant to decide on this matter. If a measure had been taken by the Customs Union, the complaint would have to be made against the Communities. The important question related to a situation in which a measure would be taken by one party to the Customs Union which was also a Member of the WTO. It seemed necessary to clarify this matter and to examine the situation carefully, so as to avoid any misunderstandings.

The presentative of India recalled that his country was fully within its rights to request the establishment of a panel under the provisions of Article 4.3 of the DSU since Turkey had not entered into consultations on this matter. The DSB had been informed of the details regarding this situation. He reiterated that since the measure had been imposed by Turkey, India had requested a panel to examine Turkey's measure. He pointed out that unless parties to the dispute agreed otherwise, this panel should have standard terms of reference in accordance with the provisions of Article 7.1 of the DSU. He therefore requested that the panel be established at the present meeting with standard terms of reference. With regard to the points raised by the Communities, he did not wish to enter into detail at the present meeting, as some of the points could amount to the amendment of the DSU.

The Chairman said that the Communities had raised two issues. First, they proposed that the meeting be adjourned in order to hold consultations. Second, they wished to be considered a party to this dispute. He recalled that, in accordance with Article 6 of the DSU, a panel should be established at the latest at the DSB meeting following that at which the request first appeared as an item on the DSB's agenda, unless at that meeting the DSB decided by consensus not to establish a panel. At present, it appeared that it was not possible for the DSB to reach a consensus on the proposal made by the Communities. Therefore, in the light of Article 6.1 of the DSU, there was no alternative but to proceed with the establishment of the panel proposing that the DSB take note of the statements made.

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

The representative of the European Communities expressed his delegation's disappointment that, although this was a Member-driven organization, only a few Members had participated in the debate. In his view, delegations had not been given the time to consider the issues involved in this matter. He thanked Mexico for the statement and asked which Member should be involved when a joint decision had been taken by two parties, and noted that India had not answered all the Communities' questions. He proposed that the Chairman transmit to the Panel all the statements made at the present meeting, including the papers circulated in the room.

The representative of Turkey inquired about the terms of reference of the Panel. His delegation had made a request for special terms of reference which had not been accepted by India. He drew attention to Article 7.3 of the DSU which provided for consultations on the terms of

reference of the panel. He asked the Chairman to clarify this matter. He expected that all statements concerning this matter would be forwarded to the Panel for consideration.

The Chairman recalled that Article 7.1 of the DSU provided that panels should have standard terms of reference unless the parties to the dispute agreed otherwise within 20 days from the date of the establishment of the panel. He would therefore remain available to assist the parties in any consultations which might be held on this matter.

The representative of India pointed out that under the DSU provisions the DSB was not required to forward documents to the Panel. Any relevant documents should be submitted to the Panel by the parties to the dispute.

The representative of Japan, the Philippines, the United States, Thailand and Hong Kong, China reserved their third-party rights to participate in the Panel's proceedings.

The representative of Hong Kong, China recalled that his delegation had previously expressed an interest in this matter. Turkey's quantitative restrictions applied also to imports of textile and clothing products from certain other suppliers, including Hong Kong, China. Although its trade in the specific items was not significant, his delegation had a substantial interest in systemic terms. The Turkish quotas had serious implications with regard to the rights under the GATT 1994 and the Agreement on Textiles and Clothing. His delegation had raised this matter in the DSB in 1996. Given the context in which these restrictions had been introduced, his delegation had recognized their intrinsic relationship with the general subject of regional trade agreements. In order to ensure full consideration of the systemic implications, his delegation had decided to pursue its interest with the framework of the Committee on Regional Trade Agreements. Against this background and recognizing the important questions of conformity of the measure with the WTO obligations, his delegation intended to participate in the work of the Panel as a third party.

The representative of the United States said that her delegation had noted the points made by the Communities and Turkey. The United States had reserved its rights to participate in the Panel's proceedings in order to address some of the issues to be raised before the Panel.

The DSB took note of the statements.

3. European Communities - Measures concerning meat and meat products (hormones)
- Implementation of the recommendations of the DSB

The Chairman said 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 should 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 on 13 February, the DSB had adopted the Appellate Body Report on "European Communities - Measures Concerning Meat and Meat Products (Hormones)", as well as the Panel Reports on the same matter as modified by the Appellate Body Report.

The representative of the European Communities reiterated the commitment of the Communities to the DSU rules and principles as well as to the dispute settlement mechanism. This commitment had been strengthened by the Report of the Appellate Body on this matter. In particular, the Communities welcomed and were reassured by the clarification contained in the Report regarding the interpretation of the rights and obligations of Members in areas of vital importance and of

considerable sensitivity such as health which constituted particular responsibilities of governments towards their citizens. Pursuant to Article 21.3 of the DSU, the Communities had the obligation, at the present meeting, to inform the DSB of their intentions in respect of the implementation of the DSB's recommendations. He confirmed that the Communities intended to fulfil their obligations under the WTO Agreement in respect of this matter. In conformity with this, the Communities had initiated the process to examine the options for compliance with the view to implementing in as short a period of time as possible. For this process, the Communities would require a reasonable period of time. He therefore proposed that the parties to the dispute seek agreement, pursuant to Article 21.3(b) of the DSU, regarding a reasonable period of time in which to state their intentions to fulfil their obligations. He hoped that, at the present meeting, it would be possible to avoid a debate with regard to what was required under Article 21.3 of the DSU and what were the Communities' intentions. There had never been any doubt that the Communities intended to bring their regime into full conformity with their WTO obligations whatever the language of the information provided to the DSB. He recalled that similar statements on intentions in regard of implementation had also been used in the past by other delegations, including India, Canada, the United States and Japan. In general, delegations had stated their intentions in broad terms. Where this was possible, they had given details of the process and, in some cases, initial steps towards implementing. He hoped that it would be possible to avoid a debate that the Communities' intentions were not clear because no internal decisions had yet been taken. His delegation was not in a position at the present meeting to enter into more detail, and reiterated that the Communities would require a reasonable period of time since they could not begin to implement immediately. The Communities would enter into discussion with the other parties to the dispute as soon as possible.

The representative of the United States said that this was an important juncture in the dispute settlement process. Her delegation welcomed the Communities' statement. It was important for the integrity and viability of the dispute settlement mechanism that Members complied with the DSB's recommendations. In this case, the Communities' obligations were clear. In accordance with the rulings, the ban had not been supported by scientific evidence nor by any of the risk assessments presented during the proceedings. All the risk assessments that had been conducted had proved that the six hormones in question were safe. This meant that compliance with the DSB's recommendations required the Communities to remove the ban on the importation of meat produced with the use of any of the six hormones to promote growth.

The United States was concerned by widespread reports that the Communities intended not to alter the ban but to search for a means to justify it by undertaking a new risk assessment or possibly even multiple risk assessments. She emphasized that this was not implementing the DSB's recommendations. In the past, the Communities had numerous opportunities to present scientific evidence to support the ban. Yet, they had not been able to develop any scientific evidence to support the ban during the more than ten-year period that this ban had been in effect. If the Communities only intended to conduct another risk assessment, when all of the available scientific evidence and risk assessments had indicated that meat from animals produced with growth promotion hormones was safe, then one could only assume that the Communities were not committed to fulfilling their WTO obligations. Article 21 of the DSU stated that: "Prompt compliance with the recommendations or rulings of the DSB is essential in order to ensure effective resolution of disputes to the benefit of all Members." This language served not only to require timely relief to the complaining Member, but to ensure the success and integrity of the dispute settlement mechanism. The key signal of the Communities' intentions lay in the answer to the question of whether the Communities could assure Members that if the results of any further studies were what everybody expected them to be -- that there was not sufficient scientific evidence to maintain the ban -- the Communities would promptly rescind the ban, and if so, precisely how long would it take to rescind the ban.

A reasonable period of time was not a right but was only available if immediate compliance was impracticable. Furthermore, the reasonable period of time was only for the purpose of implementing the DSB's recommendations. This period of time, which the United States expected to negotiate with the Communities pursuant to Article 21.3(b) of the DSU, was not the time in which the Communities were to consider how to avoid complying with the DSB's recommendations. In the consultations on the length of the reasonable period of time, the United States hoped to gain greater and more specific reassurances regarding the Communities' intentions. Her delegation's position on this matter would be shaped in part by the Communities' plan for compliance.

The representative of Canada said that pursuant to Article 21.3 of the DSU, the Communities were required to state their intentions in respect of implementation of the DSB's recommendations with regard to this matter. At the present meeting, the Communities had stated that they would fully implement their WTO obligations. One of the Communities' international obligations was the "prompt compliance with the recommendations or rulings of the DSB", as provided for in Article 21 of the DSU. Canada expected that the Communities would implement their obligations by promptly complying with the DSB's recommendations with regard to this case.

Compliance with the recommendations and rulings was a *sine qua non* of the dispute settlement system. In accordance with the DSU, compliance " is essential in order to ensure effective resolution of disputes to the benefit of all Members". Compliance was also critical in order to maintain the integrity of the dispute settlement mechanism and to achieve predictability and stability for the multilateral trading system. However, Canada was disappointed that the Communities had not provided the DSB with an indication of the time-period, other than to state that a reasonable period of time was required within which they intended to comply with the DSB's recommendations. Canada was surprised that the Communities were not able to implement the DSB's recommendations immediately as required by the DSU, and wished to know why immediate implementation was "impracticable" in this case. The Communities had stated that they were currently examining options for compliance. It was her delegation's understanding, although not from the statement made by the Communities at the present meeting, that the Communities had decided to undertake another risk assessment. In Canada's view, given that the existing internationally recognized risk assessments had confirmed the safety of beef produced with growth-promoting hormones, there was no need for another risk assessment. Canada did not expect the results of any new risk assessment, which in any case should be conducted in an expeditious and transparent manner, to alter the conclusions reached by the existing risk assessments regarding the safety of beef produced with growth-promoting hormones. Canada believed that even if the Communities conducted a risk assessment, this should not prevent them from taking the necessary measures to comply with the DSB's recommendations.

It was not sufficient to merely indicate that a reasonable period of time was required. Her delegation looked forward to having the Communities' views on what they considered to be a reasonable period of time. Canada hoped that in the very near future, the parties would achieve a mutual understanding as to what constituted a reasonable period of time. Canada believed that it was in the interest of all to reach an agreement and to avoid having the reasonable period of time established through arbitration, as provided for in the DSU. Her delegation looked forward to discussions with the Communities in the near future both with regard to the time-period for the implementation of the DSB's recommendations, and the manner in which the Communities intended to implement the DSB's recommendations.

The DSB took note of the statements and of the information provided by the Communities regarding their intentions to implement the DSB's recommendations.

4. India - Quantitative restrictions on imports of agricultural, textile and industrial products.
- Statement by the United States

The representative of the United States, speaking under "Other Business", recalled that in July 1997, Australia, Canada, the European Communities, New Zealand, Switzerland and the United States had requested consultations with India regarding its quantitative restrictions on imports. His delegation had been informed that Australia, Canada, the European Communities, New Zealand and Switzerland had reached bilateral settlements with India resolving their disputes and providing for a phase-out of import restrictions. In accordance with Article 3.6 of the DSU "Mutually agreed solutions to matters formally raised under the consultations and dispute settlement provisions of this Understanding shall be notified to the DSB and to the relevant Councils and Committees, where any Member may raise any point relating thereto." However, none of these five settlements had been notified. She asked India and the five complaining parties that had reached settlements in these disputes, when the mutually agreed solutions would be notified to the DSB. These disputes were significant as they affected a substantial amount of trade from all India's trading partners. Her delegation believed that the United States was not the only Member that would like to be informed about the outcome. The United States could only presume that the solutions to these disputes would be applied on an m.f.n. basis, but would like to be certain. She inquired about the problems that were preventing the parties to the disputes from notifying the solutions, and whether those problems would be addressed so that the notifications could be submitted as soon as possible.

The representative of India recalled that at a DSB meeting in 1996,[1] he had made a statement on Article 3.6 of the DSU wherein he recognized that under that Article, mutually agreed solutions should be notified to the DSB and to the relevant Councils and Committees. India's trading partners, referred to by the United States, had already informed the DSB of the fact that mutually agreed solutions had been found. The main reason that these solutions had not been notified thus far was that India had hoped that a mutually agreed solution could also be reached with the United States since all consultations on this matter had been initiated at the same time. If this had happened India would have notified mutually agreed solutions with all the trading partners that had simultaneously invoked the DSU procedures on this matter. Such a course of action would have facilitated easy reference for all Members and would have enabled them to analyze the details of such mutually agreed solutions in a comprehensive manner. He said that the mutually agreed solutions that India had reached with its trading partners would be applied on an m.f.n basis. He noted that Article 3.6 of the DSU did not specify any deadline regarding such notifications.

He had not been informed whether the United States had notified a mutually agreed solution on "EC - Duties on Imports of Grains", which was implicit in its communication to the DSB in document WT/DS13/8. He did not wish to imply that the lack of notification by one Member should condone the lack of notification by another Member. He wished to state that the trading partners which had reached mutually agreed solutions with India had insisted on early notifications. He was therefore responsible for this delay which was partly due to the fact that a mutually agreed solution with the United States had not been finalized and partly due to the current situation in India. He was fully aware of the responsibility to notify the solutions and would do so as soon as possible. He proposed that the Secretariat prepare a factual note listing those cases in which the DSB had been informed of the existence of mutually agreed solutions and whether such solutions had been notified.[2]

[1] WT/DSB/M/15.

[2] This information was subsequently provided in an informal note (no. 1772).

The representative of Mexico supported the proposal made by India that the Secretariat prepare a factual note listing those cases in which notifications of mutually agreed solutions were still pending.

The DSB took note of the statements.

_____