

Dispute Settlement Body

DISPUTE SETTLEMENT BODY

Annual Report (1998)¹

The present report has been prepared in pursuance of the Procedures for an Annual Overview of WTO Activities and for Reporting under the WTO (WT/L/105), and sets out the actions taken by the Dispute Settlement Body (DSB) in the period since its previous annual report.²

In carrying out its task, the DSB has held 12 meetings since the period covered by the previous report. The minutes of these meetings, which remain the record of the DSB's work, are contained in documents WT/DSB/M/40 – WT/DSB/M/51.

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¹ The Overview of the State of Play of WTO Disputes since 1 January 1995 to 31 October 1998 prepared by the Secretariat on its own responsibility is included, for practical purposes, in an Addendum to this report.

² WT/DSB/10 and Corr.1.

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1. Election of Chairperson (WT/DSB/M/40,43 and Corr.1)

At the DSB meeting on 16 January 1998, the Chairman proposed that the DSB formally elect its Chairperson at its next meeting following the meeting of the General Council to be held on 19 February.

The DSB took note of this information.

At its meeting on 13 March 1998, the DSB elected Mr. Kamel Morjane (Tunisia) as Chairman by acclamation.

2. Indicative list of governmental and non-governmental panelists (WT/DSB/M/41,44,45,47,48)

At its meeting on 22 January 1998, the DSB approved the names contained in WT/DSB/W/69/Rev.1 proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU.

At its meeting on 25 March 1998, the DSB approved the names contained in WT/DSB/W/76 proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU.

The representative of the United States spoke.

The DSB took note of the statement.

At its meeting on 22 April 1998, the DSB approved the names contained in WT/DSB/W/72 proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU.

At its meeting on 23 July 1998, the DSB approved the names contained in WT/DSB/W/80 proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU.

At its meeting on 22 September 1998, the DSB approved the names contained in WT/DSB/W/82 proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU.

The representative of the United States spoke.

The DSB took note of the statement.

3. Review of the DSU (WT/DSB/M/42,44,45,46,47,48)

At the DSB meeting on 13 February 1998, the Chairman drew attention to a report outlining the outcome of his consultations on procedural aspects of the DSU review. He proposed that the DSB take note of this report as a basis for further discussion (WT/DSB/W/74).

The DSB so agreed.

At the DSB meeting on 25 March 1998, the Chairman invited delegations to continue their work concerning the DSU review in two stages: (i) in the first preliminary stage until the May 1998 Ministerial Conference, delegations would be invited to submit in writing to the Chairman of the DSB informal suggestions with regard to the issues to be taken up in the context of the DSU review; (ii) in the second stage, after the May 1998 Ministerial Conference, an informal meeting of the DSB would be convened to take stock of the suggestions received and to discuss how to proceed further.

The representatives of Mexico, European Communities, Korea, United States, Japan, Venezuela, Canada, Philippines on behalf of the ASEAN countries, Jamaica, Australia, Hungary, and Hong Kong, China spoke.

The DSB took note of the statements.

At the DSB meeting on 22 April 1998, the Chairman recalled that the proposal concerning the review of the DSU, which had been made at the DSB meeting on 25 March 1998, had been revised in the light of the discussions and had been faxed to delegations. He informed Members that an informal meeting of the DSB would be held on 29 April to further discuss procedural aspects of the DSU review.

The DSB took note of the information.

At the DSB meeting on 22 June 1998, the Chairman read out a statement concerning the DSU review. In light of the comments made, he proposed that an informal meeting of the DSB be held to further consider this matter.

The representatives of India, Bulgaria and Mexico spoke.

The DSB took note of the statements.

At the DSB meeting on 23 July 1998, Mr. Lafer, acting Chairman, read out a revised draft statement concerning procedures for the DSU review.

The DSB took note of the statement.

At the DSB meeting on 22 September 1998, the Chairman informed delegations that the Secretariat had prepared a compilation of the informal and preliminary comments submitted by Members for the DSU Review (Job No. 4762) as well as statistical information relating to the operation of the DSU (Job No. 4750). It was his intention to hold an informal meeting of the DSB in order to start the examination of the compilation and to discuss how to organize further work.

The DSB took note of this information.

4. Review of the Rules of Conduct (WT/DSB/M/51)

At the DSB meeting on 25 November 1998, the Chairman drew attention to the fact that there was a need to consider how to conduct a review of the Rules of Conduct and reach a decision in respect thereof prior to the end of 1998. Given the short period of time of applicability of these Rules, and no particular desire among delegations to conduct a comprehensive review of the Rules of Conduct, he proposed that if delegations had no objections, at its next regular meeting, the DSB would decide to continue to apply the current Rules of Conduct (WT/DSB/RC/1) and to review them at a later stage, as necessary.

The DSB took note of the statement.

5. Confidentiality of documents in dispute settlement procedures (WT/DSB/M/41, 45)

At the DSB meeting on 22 January 1998, the EC representative expressed his delegation's concern about the breach of confidentiality regarding the Panel established at the request of Brazil to examine the EC's measures affecting importation of certain poultry products (WT/DS69). He wished to place on record the EC's concerns that the strict conditions of confidentiality under Article 18.2 of the DSU should be respected by all parties.

The representatives of the European Communities and Brazil spoke.

The DSB took note of the statements.

At the DSB meeting on 22 April 1998, the representative of Indonesia expressed concerns that the interim report of the Panel on "Indonesia – Certain Measures Affecting the Automobile Industry", which was to be strictly confidential had been leaked to the press. Indonesia believed that the DSB should seriously consider the question of the leaking of panels and the Appellate Body reports.

The representatives of Indonesia, United States, European Communities, India and Thailand spoke.

The DSB took note of the statements.

6. Delay in circulation of panel reports (WT/DSB/M/46)

At the DSB meeting on 22 June 1998, the representative of Japan expressed concern with regard to delays in circulation of panel reports due to the workload in translation. In particular, he drew attention to the Panel Report on "Indonesia – Certain Measures Affecting the Automobile Industry", which had been circulated to the parties to the dispute on 22 April 1998 but had not yet been circulated to Members due to technical reasons.

The representatives of Japan, European Communities, United States, Canada and Mexico spoke.

The DSB took note of the statements.

7. Informal note by the Secretariat concerning notifications of mutually agreed solutions (WT/DSB/M/45)

At the DSB meeting on 22 April 1998, the representative of Uruguay drew attention to an informal note prepared by the Secretariat concerning notifications of mutually agreed solutions (Job No. 1773), and proposed that this matter be included on the agenda of the next regular meeting of the DSB.

The DSB took note of the statement.

8. Next meeting of the DSB (WT/DSB/M/41,46,47,49)

At the DSB meeting on 22 January 1998, the Chairman proposed to reschedule the next regular meeting of the DSB in order to consider the adoption of the Appellate Body Report and the Panel Report on "EC – Measures Concerning Meat and Meat Products (Hormones)" (WT/DS26, WT/DS48) within the time-period required under Article 17.14 of the DSU.

The DSB took note of this information.

At the DSB meeting on 22 June 1998, the Chairman said that the Panel Report on "United States – Import Prohibition of Shrimp and Shrimp Products" (WT/DS58/R) had to be submitted for adoption by the DSB before 14 July, unless appealed by a party to the dispute. Since there was no regular meeting scheduled during this period he proposed that the DSB hold a special meeting for this purpose on the understanding that if one of the parties appealed the Report such a meeting would be cancelled.

The representatives of India, Thailand, Ecuador, Mexico and the Secretary of the DSB spoke.

The DSB took note of the statements.

At the DSB meeting on 23 July 1998, the Chairman drew attention to the fact that a 60-day time-period for adoption of the Panel Report on "Guatemala – Anti-Dumping Investigation Regarding Imports of Portland Cement from Mexico" (WT/DS60/R), which had been in circulation since 19 June, would expire on 18 August. He said that if a request to convene a DSB meeting within that period of time would be made such a meeting would have to be held accordingly.

The representatives of Mexico, European Communities, India, Guatemala, Thailand and the Secretary of the DSB spoke.

The DSB took note of the statements.

At the DSB meeting on 21 October 1998, the Chairman proposed to hold a special meeting of the DSB for the purpose of adoption of the Appellate Body Reports: (i) "United States – Import Prohibition of Certain Shrimp and Shrimp Products" (WT/DS58); and (ii) "Australia – Measures Affecting Importation of Salmon" (WT/DS18). He recalled that the current practice was to limit the agendas of special meetings only to those matters which required the convening of special meetings.

The DSB took note of this information.

9. Concluding remarks by the Chairman (WT/DSB/M/42)

At the DSB meeting on 13 February 1998, the outgoing Chairman of the DSB, Mr. W. Armstrong (New Zealand), made concluding remarks.

The representative of India spoke.

The DSB took note of the statements.

10. Adoption of the 1998 Draft Annual Report of the DSB (WT/DSB/M/51)

At the DSB meeting on 25 November 1998, the Chairman submitted for adoption a draft text of the 1998 Annual Report of the DSB contained in WT/DSB/W/86 and Add 1. He proposed that following the adoption of the Annual Report, 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. This updated Annual Report would be submitted for consideration by the General Council at its meeting on 9-11 December.

The DSB adopted the Annual Report contained in WT/DSB/W/86 and Add.1 on the understanding that it would be further updated by the Secretariat as proposed by the Chairman.

11. Anti-dumping investigation by Ecuador on imports of cement from Mexico (WT/DSB/M/46)

At the DSB meeting on 22 June 1998, the representative of Mexico informed the DSB that in February 1998, Ecuador had decided to initiate an anti-dumping investigation on imports of cement from Mexico. Mexico considered that this investigation, which had not been conducted in compliance with the provisions of the Anti-Dumping Agreement, should have never been initiated.

The representatives of Mexico and Ecuador spoke.

The DSB took note of the statements.

12. European Communities - Regime for the importation, sale and distribution of bananas (WT/DSB/M/41,42,44,45,46,48)

At the DSB meeting on 22 January 1998, the representative of Guatemala expressed his delegation's concerns about the EC's proposal to modify its banana import regime in order to implement the DSB's recommendations. In particular, Guatemala was concerned that this proposal, if approved, would lead to a more discriminatory banana regime than the current one.

The representatives of Guatemala, Mexico, Honduras, United States, Panama, Ecuador, European Communities, Norway and the Chairman spoke.

The DSB took note of the statements.

At the DSB meeting on 13 February 1998, the representative of Mexico, speaking also on behalf of Ecuador, Guatemala, Honduras, Panama and the United States, informed the DSB that the six countries had received the Commission's proposal regarding the EC's banana import regime. Following the examination of this proposal, they considered that if this proposal was implemented it would result in a banana import regime incompatible with the WTO rules.

The representatives of Mexico, speaking also on behalf of Ecuador, Guatemala, Honduras, Panama and the United States, as well as the representatives of Ecuador and the European Communities spoke.

The DSB took note of the statements.

At the DSB meeting on 25 March 1998, the representative of Ecuador, speaking also on behalf of Guatemala, Honduras, Mexico, Panama and the United States, reiterated concerns with regard to the EC's proposal to modify its banana import regime.

The representative of Ecuador, speaking also on behalf of Guatemala, Honduras, Mexico, Panama and the United States, as well as the representatives of the European Communities and Colombia spoke.

The DSB took note of the statements.

At the DSB meeting on 22 April 1998, the representative of Ecuador, speaking also on behalf of Guatemala, Honduras, Mexico, Panama and the United States, expressed concerns that the EC's proposal on its banana import regime was WTO-inconsistent. He drew attention to new claims made by the European Communities in order to justify its proposal and provided a brief explanation as to why the position of the six countries remained unchanged on this matter.

The representative of Ecuador, speaking also on behalf of Guatemala, Honduras, Mexico, Panama and the United States, as well as the representatives of Colombia, European Communities and Costa Rica spoke.

The DSB took note of the statements.

At the DSB meeting on 22 June 1998, the US representative, speaking also on behalf of Ecuador, Guatemala, Honduras, Mexico and Panama, expressed the six-countries' continued concerns about the EC's proposal with regard to the implementation of the DSB's recommendations on its banana import regime.

The representative of the United States, speaking also on behalf of Ecuador, Guatemala, Honduras, Mexico and Panama as well as the representatives of Ecuador and the European Communities spoke.

The DSB took note of the statements.

At the DSB meeting on 22 September 1998, the representative of the United States, speaking also on behalf of Ecuador, Guatemala, Honduras, Mexico and Panama said that the item was on the agenda for information purposes only. He expressed concerns about the EC's refusal of the request made by the complaining parties pursuant to Article 21.5 of the DSU (WT/DS27/21) that the original panel examine the consistency of the EC's revised measures with the DSB's recommendations.

The representative of the United States, speaking also on behalf of Ecuador, Guatemala, Honduras, Mexico and Panama, as well as the representatives of the European Communities, Colombia, Cuba, Saint Lucia, Jamaica, Brazil, Argentina, Costa Rica, Japan, Côte d'Ivoire, Venezuela, Australia, Dominican Republic, Nicaragua, Ecuador, Honduras, Philippines and Guatemala spoke.

The DSB took note of the statements.

13. United States - The Cuban Liberty and Democratic Solidarity Act (WT/DSB/M/45,46)

At the DSB meeting on 22 April 1998, the representative of Cuba said that the panel established at the request of the European Communities to examine the Helms-Burton Act (WT/DS38) had lapsed since its work had not been re-activated within the period of 12 months pursuant to Article 12.12 of the DSU. He reserved his country's rights under the WTO Agreement to revert to this matter, if necessary.

The DSB took note of the statement.

At the DSB meeting on 22 June 1998, the representative of Cuba sought clarification from the European Communities with regard to its agreement of 18 May 1998 with the United States regarding the Helms-Burton Act. In particular, he was concerned that this agreement had not been notified to the DSB pursuant to Article 3.6 of the DSU.

The representatives of Cuba and the European Communities spoke.

The DSB took note of the statements.

14. Recourse to dispute settlement procedures

(a) Argentina

(i) *Measures affecting imports of footwear, textiles, apparel and other items (WT/DSB/M/45,46)*

In February 1997³, the DSB had established a panel to examine this matter at the request of the United States. In January 1998, Argentina had notified the DSB of its decision to appeal certain issues of law and legal interpretations developed by the Panel.

At its meeting on 22 April 1998, the DSB considered the Appellate Body Report in WT/DS56/AB/R and Corr.1 and the Panel Report in WT/DS56/R, pertaining to the complaint by the United States.

The representatives of the United States, Argentina and the European Communities spoke.

³ WT/DSB/M/29.

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS56/AB/R and Corr.1 and the Panel Report in WT/DS56/R as modified by the Appellate Body Report.

Following the adoption of the Reports, the representative of the IMF, speaking as an observer, and India spoke.

The DSB took note of the statements.

At the DSB meeting on 22 June 1998, the representative of Argentina informed the DSB that his country and the United States had agreed on a reasonable period of time and modalities for the implementation of the DSB's recommendations. In accordance with this agreement, Argentina had undertaken to bring its specific duties on textiles and apparel into conformity with the DSB's recommendations by 19 October 1998. With regard to its statistical tax, Argentina would complete the implementation process by 1 January 1999.

The representatives of Argentina and the United States spoke.

The DSB took note of the statements.

(ii) *Safeguard measures on imports of footwear (WT/DSB/M/46,47)*

At its meeting on 22 June 1998, the DSB considered a request by the European Communities for the establishment of a panel to examine its complaint regarding Argentina's safeguard measures on imports of footwear (WT/DS121/3).

The representatives of the European Communities and Argentina spoke.

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

At its meeting on 23 July 1998, the DSB again considered this matter.

The representatives of the European Communities and Argentina spoke.

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

Brazil, Indonesia, Paraguay, United States and Uruguay reserved their third-party rights to participate in the Panel proceedings.

(b) Australia

(i) *Measures affecting importation of salmon (WT/DSB/M/50, 51)*

In 1997⁴, the DSB had established a panel to examine this matter at the request of Canada. In July 1998, Australia had notified the DSB of its decision to appeal certain issues of law and legal interpretations developed by the Panel.

At its meeting on 6 November 1998, the DSB considered the Appellate Body Report in WT/DS18/AB/R and the Panel Report in WT/DS18/R and Corr.1, pertaining to the complaint by Canada.

⁴ WT/DSB/M/31.

The representatives of Canada, Australia, Norway, United States and the European Communities spoke.

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS18/AB/R and the Panel Report in WT/DS18/R and Corr.1 as modified by the Appellate Body Report.

At the DSB meeting on 25 November 1998, in accordance with Article 21.3 of the DSU, Australia informed the DSB of its intentions in respect of implementation of the DSB's recommendations on this matter.

The representatives of Australia, Canada and the United States spoke.

The DSB took note of the statements and of the information provided by Australia regarding its intentions in respect of implementation of the DSB's recommendations.

(ii) *Subsidies provided to producers and exporters of automotive leather (WT/DSB/M/41, 46)*

At its meeting on 22 January 1998, the DSB considered a request by the United States for the immediate establishment of a panel pursuant to Article 4.4 of the Agreement on Subsidies and Countervailing Measures (SCM) to examine Australia's subsidies provided to its producers and exporters of automotive leather (WT/DS106/2).

The representatives of the United States and Australia spoke.

The DSB took note of the statements and agreed to establish a panel in accordance with the accelerated procedures pursuant to Article 4.4 of the SCM Agreement with standard terms of reference.

At its meeting on 22 June 1998, the DSB considered a new request for the immediate establishment of a panel pursuant to Article 4.4 of the SCM Agreement to examine Australia's subsidies provided to its producers and exporters of automotive leather (WT/DS126/2). Australia, supported by several countries, raised objections with regard to the US approach to withdraw its earlier request (WT/DS106/2) with regard to the same measures, and to terminate any further action in pursuance of the DSB's decision of 22 January 1998 establishing a panel to examine this matter.

The representatives of the United States, Australia, India, Mexico, European Communities, Japan, Venezuela, Cuba, Bulgaria, Thailand and the Chairman spoke.

The DSB took note of the statements and agreed to establish a panel in accordance with the accelerated procedures pursuant to Article 4.4 of the SCM Agreement with standard terms of reference.

(c) Brazil

(i) *Export financing programme for aircraft (WT/DSB/M/47)*

At its meeting on 23 July 1998, the DSB considered a request by Canada for the immediate establishment of a panel pursuant to Article 4.4 of the SCM Agreement to examine Brazil's export subsidies granted under the PROEX; i.e., *Programa de Financiamento às Exportações* (WT/DS46/5).

The representatives of Canada and Brazil spoke.

The DSB took note of the statements and agreed to establish a panel in accordance with the accelerated procedures pursuant to Article 4.4 of the SCM Agreement with standard terms of reference.

The United States reserved its third-party rights to participate in the Panel proceedings.

(d) Canada

(i) *Certain automotive industry measures (WT/DSB/M/51)*

At its meeting on 25 November 1998, the DSB considered a request by Japan for the establishment of a panel to examine its complaint with regard to certain aspects of Canada's automotive trade regime (WT/DS139/2).

The representatives of Japan, Canada and the European Communities spoke.

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

(ii) *Measures affecting dairy exports (WT/DSB/M/44)*

At its meeting on 25 March 1998, the DSB considered a request by New Zealand for the establishment of a panel to examine its complaint with regard to Canada's export subsidies on dairy products (WT/DS113/4).

The representatives of New Zealand and Canada spoke.

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

Australia and Japan reserved their third-party rights to participate in the Panel proceedings.⁵

The Chairman proposed that New Zealand's complaint (WT/DS113/4) and the US complaint with regard to Canada's measures affecting the importation of milk and the exportation of dairy products (WT/DS103/4) be examined by a single panel in accordance with Article 9 of the DSU, provided that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints would in no way be impaired.

The DSB so agreed.

(iii) *Measures affecting the export of civilian aircraft (WT/DSB/M/47)*

At its meeting on 23 July 1998, the DSB considered a request by Brazil for the immediate establishment of a panel pursuant to Article 4.4 of the Agreement on Subsidies and Countervailing Measures (SCM) to examine Canada's subsidies granted to support its export of civilian aircraft (WT/DS70/2).

The representatives of Brazil and Canada spoke.

⁵After the meeting the United States reserved its third-party rights to participate in the Panel proceedings.

The DSB took note of the statements and agreed to establish a panel in accordance with the accelerated procedures pursuant to Article 4.4 of the SCM Agreement with standard terms of reference.

The United States reserved its third-party rights to participate in the Panel proceedings.

- (iv) *Measures affecting the importation of milk and the exportation of dairy products (WT/DSB/M/42,44)*

At its meeting on 13 February 1998, the DSB considered a request by the United States for the establishment of a panel to examine its complaint with regard to Canada's export subsidies on dairy products and its administration of the tariff-rate quota for milk (WT/DS103/4).

The representatives of the United States and Canada spoke.

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

At its meeting on 25 March 1998, the DSB again considered this matter.

The representatives of the United States and Canada spoke.

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

Australia and Japan reserved their third-party rights to participate in the Panel proceedings.

The Chairman proposed that the US complaint (WT/DS103/4) and New Zealand's complaint with regard to Canada's measures affecting dairy exports (WT/DS113/4) be examined by a single panel in accordance with Article 9 of the DSU, provided that the rights which the parties would have enjoyed had separate panels examined the complaints would in no way be impaired.

The DSB so agreed.

- (v) *Patent protection of pharmaceutical products (WT/DSB/M/51)*

At its meeting on 25 November 1998, the DSB considered a request by the European Communities for the establishment of a panel to examine its complaint with regard to certain aspects of Canada's patent laws and regulations (WT/DS114/5).

The representatives of the European Communities, Canada and Cuba spoke.

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

- (e) Chile

- (i) *Taxes on alcoholic beverages (WT/DSB/M/44)*

At its meeting on 25 March 1998, the DSB considered a request by the European Communities for the establishment of a panel to examine its complaint with regard to Chile's tax regime on alcoholic beverages (WT/DS110/4). Since the DSB had already established a panel on this matter (WT/DS87/5), the EC representative proposed that a single panel be established with standard terms of reference to examine the two complaints.

The representatives of the European Communities, Chile, Mexico and Peru spoke.

The DSB took note of the statements and agreed to establish a panel in accordance with the provisions of Article 6 of the DSU with standard terms of reference. In accordance with the agreement by the parties to the dispute, the DSB also agreed that the Panel examine both complaints by the European Communities contained in documents WT/DS87/5 and WT/DS110/4.

Canada, Peru and the United States reserved their third-party rights to participate in the Panel proceedings.

(f) Czech Republic

(i) *Measure affecting import duty on wheat from Hungary (WT/DSB/M/49)*

At the DSB meeting on 21 October 1998, the representative of Hungary informed Members that his country was in the process of consultations, pursuant to Article 4.8 of the DSU, with the Czech Republic concerning its measure imposed on wheat from Hungary (WT/DS148/1). Hungary hoped that a mutually agreed solution would be found shortly.

The representative of Hungary and the Czech Republic spoke.

The DSB took note of the statements.

(g) European Communities

(i) *Customs classification of certain computer equipment (WT/DSB/M/46)*

In February 1997⁶, the DSB had established a panel to examine the complaint by the United States with regard to the regulation by the EC Commission reclassifying certain local area network adapter equipment and certain types of personal computers. In March 1997⁷, the DSB had agreed to modify the terms of reference of the panel established at its meeting on 25 February 1997 in order to incorporate the panel requests by the United States with regard to the reclassification of certain computer equipment by customs authorities of Ireland and the United Kingdom. In March 1998, the Community had notified the DSB of its decision to appeal certain issues of law and legal interpretations developed by the Panel.

At the DSB meeting on 22 June 1998, the DSB considered the Appellate Body Report in WT/DS62/AB/R - WT/DS67/AB/R - WT/DS68/AB/R and the Panel Report in WT/DS62/R - WT/DS67/R - WT/DS68/R pertaining to the complaint by the United States.

The representatives of the European Communities and the United States spoke.

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS62/AB/R - WT/DS67/AB/R - WT/DS68/AB/R and the Panel Report in WT/DS62/R - WT/DS67/R - WT/DS68/R as modified by the Appellate Body Report.

(ii) *Measures affecting asbestos and products containing asbestos (WT/DSB/M/49, 51)*

⁶ WT/DSB/M/29.

⁷ WT/DSB/M/30.

At its meeting on 21 October 1998, the DSB considered a request by Canada for the establishment of a panel to examine its complaint with regard to the measures taken by France prohibiting asbestos and products containing asbestos (WT/DS135/3).

The representatives of Canada and the European Communities spoke.

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

At its meeting on 25 November 1998, the DSB again considered this matter.

The representatives of Canada and the European Communities spoke.

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

The United States reserved its third-party rights to participate in the Panel proceedings.

(iii) *Measures affecting the grant of copyright and neighbouring rights (WT/DSB/M/41)*

At its meeting on 22 January 1998, the DSB considered two requests by the United States for the establishment of a single panel to examine its complaint against Ireland (WT/DS82/2) and the European Communities (WT/DS115/2) regarding the legal regime in Ireland for the protection of copyright and neighbouring rights.

The representatives of the United States and the European Communities spoke.

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

(iv) *Measures affecting the importation of certain poultry products (WT/DSB/M/47,49)*

In July 1997⁸, the DSB had established a panel to examine this matter at the request of Brazil. In April 1998, the EC notified its decision to appeal certain issues of law and legal interpretations developed by the Panel.

At its meeting on 23 July 1998, the DSB considered the Appellate Body Report in WT/DS69/AB/R and the Panel Report in WT/DS69/R pertaining to the complaint by Brazil.

The representatives of Brazil, European Communities and Colombia spoke.

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS69/AB/R and the Panel Report in WT/DS69/R as modified by the Appellate Body Report.

At the DSB meeting on 21 October 1998, the EC representative informed Members that pursuant to Article 21.3 of the DSU, Brazil and the EC had reached an agreement with regard to a reasonable period of time ending on 31 March 1999 for compliance with the DSB's recommendations on this matter.

The representatives of the European Communities and Brazil spoke.

The DSB took note of the statements.

(v) *Measures concerning meat and meat products (hormones) (WT/DSB/M/42, 43 and Corr.1)*

⁸ WT/DSB/M/36.

In May 1996⁹, the DSB had established a panel to examine this matter at the request of the United States. In October 1996¹⁰, the DSB had established a panel to examine this matter at the request of Canada. In September 1997, the complaining parties had notified the DSB of their decision to appeal certain issues of law and legal interpretations developed by the Panel.

At its meeting on 13 February 1998, the DSB considered the Appellate Body Report in WT/DS26/AB/R – WT/DS48/AB/R and the Panel Reports in WT/DS26/R/USA and WT/DS48/R/CAN pertaining to the complaints by the United States and Canada.

The representatives of the United States, Canada, European Communities, Norway, New Zealand, Australia, Argentina and Switzerland spoke.

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS26/AB/R-WT/DS48/AB/R and the Panel Reports in WT/DS26/R/USA, WT/DS48/R/CAN as modified by the Appellate Body Report.

At the DSB meeting on 13 March 1998, the representative of the European Communities informed the DSB of the EC's intentions in respect of implementation of the DSB's recommendations pursuant to Article 21.3 of the DSU. He said that the EC would require a reasonable period of time since it could not begin to implement immediately and for that purpose it would enter into discussions with the other parties to the dispute.

The representatives of the European Communities, United States and Canada spoke.

The DSB took note of the statements and of the information provided by the Communities regarding its intentions in respect of implementation of the DSB's recommendations.

(h) Guatemala

(i) *Anti-dumping investigation regarding portland cement from Mexico (WT/DSB/M/51)*

In March 1997¹¹, the DSB had established a panel to examine this matter at the request of Mexico. In August 1998, Guatemala had notified the DSB of its decision to appeal certain issues of law and legal interpretations developed by the Panel.

At its meeting on 25 November 1998, the DSB considered the Appellate Body Report in WT/DS60/AB/R and the Panel Report in WT/DS60/R pertaining to the complaint by Mexico.

The representatives of Mexico, Guatemala, United States, Japan, Philippines, Ecuador, India, Argentina and Hong Kong, China spoke.

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS60/AB/R and the Panel Report in WT/DS60/R as reversed by the Appellate Body Report.

(i) India

(i) *Patent protection for pharmaceutical and agricultural chemical products (WT/DSB/M/40,42,45,48,49, 51)*

⁹ WT/DSB/M/17.

¹⁰ WT/DSB/M/24.

¹¹ WT/DSB/M/30.

In November 1996¹², the DSB had established a panel to examine the complaint by the United States. In October 1997, India had notified its decision to appeal from certain issues of law and legal interpretations developed by the Panel.

At its meeting on 16 January 1998, the DSB considered the Appellate Body Report in WT/DS50/AB/R and the Panel Report in WT/DS50/R pertaining to the complaint by the United States.

The representatives of the United States, India, Colombia and Switzerland spoke.

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS50/AB/R and the Panel Report in WT/DS50/R, as modified by the Appellate Body Report.

At the DSB meeting on 13 February 1998, the representative of India informed the DSB that it was his country's intention to meet its WTO obligations and that India would require a reasonable period of time to comply with the DSB's recommendations.

The representatives of India, and the United States spoke.

The DSB took note of the statements.

At the DSB meeting on 22 April 1998, the representative of India informed the DSB that as a result of bilateral consultations, his country and the United States had agreed, on 21 April 1998, that a reasonable period of time for India to implement the DSB's recommendations would be 15 months, no later than 19 April 1999.

The representatives of India and the United States spoke.

The DSB took note of the statements.

In October 1997¹³, the DSB had agreed to establish a panel to examine the complaint by the European Communities with regard to the same matter.

At its meeting on 22 September 1998, the DSB considered the Panel Report in WT/DS79/R pertaining to the complaint by the European Communities.

The representatives of the European Communities, India, Argentina and the United States spoke.

The DSB took note of the statements and adopted the Panel Report in WT/DS79/R.

At the DSB meeting on 21 October 1998, the representative of India informed Members that his country's intention was to meet its WTO obligations and that India would require a reasonable period of time to comply with the DSB's recommendations.

The DSB took note of the information provided by India regarding its intentions in respect of implementation of the DSB's recommendations.

At the DSB meeting on 25 November 1998, the representative of India, speaking also on behalf of the European Communities, informed the DSB that as a result of the bilateral consultations,

¹² WT/DSB/M/26.

¹³ WT/DSB/M/38.

India and the EC had agreed, on 24 November 1998 on a reasonable period of time, until 19 April 1999, to implement the recommendations of the DSB on this matter (WT/DS79).

The DSB took note of this information.

- (ii) *Quantitative restrictions on imports of agricultural, textile and industrial products (WT/DSB/M/43 and Corr.1)*

At the DSB meeting on 13 March 1998, the representative of the United States stated that his delegation had been informed that Australia, Canada, European Communities, New Zealand and Switzerland had reached bilateral settlements with India regarding its quantitative restrictions on imports of agricultural, textile and industrial products.¹⁴ She inquired when these mutually agreed solutions would be notified to the DSB.

The representatives of the United States, India and Mexico spoke.

The DSB took note of the statements.

- (j) Indonesia

- (i) *Certain measures affecting the automobile industry (WT/DSB/M/47,48)*

In June 1997¹⁵, the DSB had agreed to establish a single panel to examine the complaints by Japan and the European Communities. In July 1997¹⁶, the DSB had agreed to establish a panel to examine the complaint by the United States with regard to the same matter. At that meeting, the DSB had also agreed that the panel established at the request of Japan and the EC would also examine the US complaint.

At its meeting on 23 July 1998, the DSB considered the Panel Report in WT/DS54/R – WT/DS55/R – WT/DS59/R – WT/DS64/R and Corr.2 pertaining to the complaint by the European Communities, Japan and the United States.

The representatives of Indonesia, Japan, European Communities, United States and Canada spoke.

The DSB took note of the statements and adopted the Panel Report in WT/DS54/R – WT/DS55/R – WT/DS59/R – WT/DS64/R and Corr.2.

At the DSB meeting on 22 September 1998, the EC representative expressed his delegation's concern about a reasonable period of time of 15 months requested by Indonesia in order to implement the DSB's recommendations. In the EC's view this period of time was excessively long.

The representatives of the European Communities, United States, Japan and Indonesia spoke.

The DSB took note of the statements.

- (k) Japan

- (i) *Measures affecting consumer photographic film and paper (WT/DSB/M/45)*

¹⁴ Requests for consultations by Australia (WT/DS91/1), Canada (WT/DS92/1), New Zealand (WT/DS93/1) Switzerland (WT/DS94/1) and the EC (WT/DS96/1).

¹⁵ WT/DSB/M/34.

¹⁶ WT/DSB/M/36.

In October 1996¹⁷, the DSB had established a panel to examine the complaint by the United States.

At its meeting on 22 April 1998, the DSB considered the Panel Report in WT/DS44/R pertaining to the complaint by the United States.

The representatives of Japan, United States and the European Communities spoke.

The DSB took note of the statements and adopted the Panel Report in WT/DS44/R.

(ii) *Taxes on alcoholic beverages (WT/DSB/M/41)*

At the DSB meeting on 22 January 1998, the representative of Japan informed the DSB that his country and the parties to the dispute had reached, in December 1997, mutually satisfactory solutions regarding the implementation by Japan of the DSB's recommendations. He outlined the measures pertaining to these solutions which would be adopted by Japan in accordance with its legislative procedures.¹⁸

The representatives of Japan, United States, Canada, European Communities and Mexico spoke.

The DSB took note of the statements.

(1) Korea

(i) *Definitive safeguard measure on certain dairy products (WT/DSB/M/41,46,47)*

At its meeting on 22 January 1998, the DSB had before it for consideration a request by the European Communities for the establishment of a panel to examine its complaint with regard to a definitive safeguard measure imposed by Korea on imports of certain dairy products (WT/DS98/4). The consideration of this request was postponed since the Communities believed that the ongoing consultations with Korea on this matter could result in a mutually agreed solution.

The representatives of the European Communities and Korea spoke.

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

At its meeting on 22 June 1998, the DSB considered a request by the European Communities for the establishment of a panel to examine this matter (WT/DS98/4).

The representatives of the European Communities and Korea spoke.

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

At its meeting on 23 July 1998, the DSB again considered this matter.

The representatives of the European Communities and Korea spoke.

¹⁷ WT/DSB/M/24.

¹⁸ Joint notifications are contained in documents: WT/DS8/19 – WT/DS10/19 – WT/DS11/17; WT/DS8/20 – WT/DS10/20 – WT/DS11/18; WT/DS8/17/Add.1 – WT/DS10/17/Add.1 – WT/DS11/15/Add.1.

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

The United States reserved its third-party rights to participate in the Panel proceedings.

(m) Mexico

(i) *Anti-dumping investigation of high-fructose corn syrup (HFCS) from the United States (WT/DSB/M/49, 51)*

At its meeting on 21 October 1998 the DSB considered a request by the United States to examine its complaint with regard to Mexico's anti-dumping measures pertaining to high fructose corn syrup (WT/DS132/2).

The representatives of the United States and Mexico spoke.

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

At its meeting on 25 November 1998, the DSB again considered this matter.

The representatives of the United States and Mexico spoke.

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

Jamaica reserved its third-party rights to participate in the Panel proceedings.

(n) Philippines

(i) *Measures affecting pork and poultry (WT/DSB/M/44)*

At the DSB meeting on 25 March 1998, the representative of the United States announced that her country and the Philippines had reached a mutually agreed solution concerning the administration by the Philippines of its minimum access commitments for pork and poultry meat (WT/DS74/5 – WT/DS102/6).

The representatives of the United States and the European Communities spoke.

The DSB took note of the statements.

(o) Slovak Republic

(i) *Measure affecting import duty on wheat from Hungary (WT/DB/M/49)*

At its meeting on 21 October 1998, the DSB considered a request by Hungary to examine its complaint with regard to the measure taken by the Slovak Republic on imports of wheat from Hungary (WT/DS143/2).

The representatives of Hungary and the Slovak Republic spoke.

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

(p) Turkey

(i) *Restrictions on imports of textile and clothing products (WT/DSB/M/42,43 and Corr.1,47)*

At its meeting on 13 February 1998, the DSB considered a request by India to examine its complaint with regard to Turkey's imposition of quantitative restrictions on imports of a broad range of textile and clothing products (WT/DS34/2).

The representatives of India, Turkey and the European Communities spoke.

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

At its meeting on 13 March 1998, the DSB again considered this matter.

The representatives of India, Turkey, European Communities, Mexico, United States and Hong Kong, China spoke.

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

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

At the DSB meeting on 23 July 1998, the representative of the European Communities recalled that at the DSB meeting on 13 March his delegation had raised some legal questions with regard to India's request for a panel to examine Turkey's restrictions on imports of textile and clothing products. Since the Community was not a party to this dispute it was not in a position to raise these questions before the Panel. He therefore wished to ask the Secretariat to provide a response to these questions.

The representatives of the European Communities, India, United States and Mexico spoke.

The DSB took note of the statements.

(q) United States

(i) *Anti-dumping Act of 1916 (WT/DSB/M/51)*

At its meeting on 25 November 1998, the DSB considered a request by the European Communities for the establishment of a panel to examine its complaint with regard to the US Anti-Dumping Act of 1916 (WT/DS136/2).

The representatives of the European Communities and the United States spoke.

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

(ii) *Anti-dumping duty on dynamic random access memory semiconductors (DRAMs) of one megabit or above from Korea (WT/DSB/M/40)*

At its meeting on 16 January 1998, the DSB considered a request by Korea to examine its complaint with regard to a decision by the US Department of Commerce not to revoke the anti-dumping duty on dynamic random access memory semiconductors (DRAMs) of one megabyte or above from Korea (WT/DS99/2).

The representatives of Korea and the United States spoke.

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

(iii) *Imposition of anti-dumping duties on imports of colour television receivers from Korea (WT/DSB/M/48)*

At the DSB meeting on 22 September 1998, the representative of Korea said that his country had withdrawn its request for the establishment of a panel to examine the US anti-dumping duties on imports of colour television receivers from Korea (WT/DS89/9).

The representatives of Korea and the United States spoke.

The DSB took note of the statements.

(iv) *Import prohibition of certain shrimp and shrimp products (WT/DSB/M/50, 51)*

In February 1997¹⁹, the DSB had established a single panel to examine the joint complaint by Malaysia and Thailand as well as the complaint by Pakistan. In April 1997²⁰, the DSB had established a panel to examine the complaint by India on the same matter, and had agreed that the Panel established at the request of Malaysia, Pakistan and Thailand would also examine India's complaint in accordance with Article 9 of the DSU. In July 1998, the United States notified its decision to appeal certain issues of law and legal interpretations developed by the Panel.

At its meeting on 6 November 1998, the DSB considered the Appellate Body Report in WT/DS58/AB/R and the Panel Report in WT/DS58/R and Corr.1 pertaining to the complaints by India, Malaysia, Pakistan and Thailand.

The representatives of Thailand, Pakistan, Malaysia, India, United States, European Communities, Brazil, Australia, Mexico, Switzerland, Philippines, Japan and Hong Kong, China spoke.

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS58/AB/R and the Panel Report in WT/DS58/R and Corr.1 as modified by the Appellate Body Report.

At the DSB meeting on 25 November 1998, in accordance with Article 21.3 of the DSU, the United States informed the DSB of its intentions in respect of implementation of the DSB's recommendations on this matter.

The representatives of the United States, Thailand, Pakistan, Malaysia and India spoke.

The DSB took note of the statements and of the information provided by the United States regarding its intentions in respect of implementation of the DSB's recommendations.

(v) *Measure affecting government procurement (WT/DSB/M/48,49)*

At its meeting on 22 September 1998, the DSB considered the requests by the European Communities and Japan for the establishment of panels to examine the Act adopted by the

¹⁹ WT/DSB/M/29.

²⁰ WT/DSB/M/31.

Commonwealth of Massachusetts on 25 June 1996, regulating state contracts with companies doing business with Myanmar (WT/DS88/3; WT/DS95/3).

The representative of the European Communities, Japan and the United States spoke.

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

At its meeting on 21 October 1998, the DSB again considered this matter.

The representatives of the European Communities, Japan, United States, Philippines, Cuba, Colombia, Mexico, Argentina and Hong Kong, China spoke.

The DSB took note of the statements and agreed to establish a single panel in accordance with Article 9 of the DSU with terms of reference pursuant to Article XXII:4 of the Agreement on Government Procurement.

(vi) *Measures affecting textiles and apparel products (WT/DSB/M/40)*

At the DSB meeting on 16 January 1998, the representative of Hong Kong, China raised his delegation's concerns with regard to the lack of notification of a mutually agreed solution in the case of the consultations requested by the European Communities with the United States concerning changes in the US rules of origin for textiles and apparel products (WT/DS85/1). His delegation believed that this was a systemic issue which related to transparency and should therefore be considered in the review of the DSU.

The representatives of Hong Kong, China as well as the representative of the United States, European Communities and Japan spoke.

The DSB took note of the statements.

(vii) *Tax treatment for "Foreign Sales Corporations" (WT/DSB/M/47,48)*

At its meeting on 23 July 1998, the DSB considered a request by the European Communities for the establishment of a panel to examine its complaint with regard to Sections 921-927 of the US Internal Revenue Code and related measures, establishing special tax treatment for "Foreign Sales Corporations" (WT/DS108/2).

The representatives of the European Communities and the United States spoke.

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

At its meeting on 22 September 1998, the DSB again considered this matter.

The representatives of the European Communities and the United States spoke.

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

Canada reserved its third-party right to participate in the Panel proceedings.²¹

²¹ After the meeting, Barbados and Japan reserved their third-party rights to participate in the Panel proceedings.

(viii) *Unilateral Section 301 procedures of the US Trade Act of 1974 (WT/DSB/M/51)*

At the DSB meeting on 25 November 1998, the EC representative said that he had received instructions to request consultations with the United States regarding the Section 301 procedure of the US Trade Act of 1974.

The representatives of the European Communities, United States, Cuba, Ecuador, Japan, Jamaica, Indonesia, Guatemala, Hungary, Norway, Honduras, Switzerland, Poland, Dominica, Czech Republic, Panama and Mexico spoke.

The DSB took note of the statements.

15. Surveillance of implementation of recommendations adopted by the DSB

Matters considered by the DSB under this item are included on the agenda pursuant to Article 21.6 of the DSU which provides 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 time-period pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved. At least 10 days prior to each such DSB meeting, the Member concerned shall provide the DSB with a status report in writing of its progress in the implementation of the recommendations or rulings."

(a) Canada

(i) *Certain measures concerning periodicals (WT/DSB/M/44,45,46,47,48,49)*

At its meeting on 25 March 1998, the DSB considered the first status report by Canada on the implementation of the DSB's recommendations on this matter (WT/DS31/9).

The representatives of Canada and the United States spoke.

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

At its meeting on 22 April 1998, the DSB considered the second status report by Canada contained in WT/DS31/9/Add.1.

The representatives of Canada and the United States spoke.

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

At its meeting on 22 June 1998, the DSB considered the third status report by Canada contained in WT/DS31/9/Add.2.

The representatives of Canada and the United States spoke.

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

At its meeting on 23 July 1998, the DSB considered the fourth status report by Canada contained in WT/DS31/9/Add.3.

The representatives of Canada, United States and the European Communities spoke.

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

At its meeting on 22 September 1998, the DSB considered the fifth status report by Canada contained in WT/DS31/9/Add.4.

The representatives of Canada and the United States spoke.

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

At its meeting on 21 October 1998, the DSB considered the sixth status report by Canada contained in WT/DS31/9/Add.5.

The representatives of Canada and the United States spoke.

The DSB took note of the statements.

(b) European Communities

(i) *Regime for the importation, sale and distribution of bananas (WT/DSB/M/47,48,49, 51)*

At its meeting on 23 July 1998, the DSB considered the first status report by the European Communities on the implementation of the DSB's recommendations on this matter (WT/DS27/17).

The representatives of the European Communities, Honduras, speaking also on behalf of Ecuador, Guatemala, Mexico, Panama and the United States, as well as the representatives of Colombia, Brazil and Costa Rica spoke.

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

At its meeting on 22 September 1998, the DSB considered the second status report by the European Communities contained in WT/DS27/17/Add.1.

The representative of the European Communities spoke.

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

At its meeting on 21 October 1998, the DSB considered the third status report by the European Communities contained in WT/DS27/17/Add.2.

The representatives of the European Communities, Ecuador, speaking also on behalf of Honduras, Guatemala, Mexico, Panama and United States, as well as the representatives of Honduras, Guatemala, Mexico, United States, Panama, Japan, Australia, Jamaica and Cuba spoke.

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

At its meeting on 25 November 1998, the DSB considered the fourth status report by the European Communities contained in WT/DS27/17/Add.3.

The representatives of the European Communities, United States, Ecuador, Philippines, Japan and Mexico spoke.

The DSB took note of the statements.

(c) India

(i) *Patent protection for pharmaceutical and agricultural chemical products (WT/DSB/51)*

At its meeting on 25 November 1998, the DSB considered the first status report by India on the implementation of the DSB's recommendations on this matter (WT/DS50/10).

The representatives of India and the United States spoke.

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