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**Dispute Settlement Body**

**DISPUTE SETTLEMENT BODY**

Draft Annual Report (1999)<sup>1</sup>

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.<sup>2</sup>

In carrying out its task, the DSB has held 15 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/53 - WT/DSB/M/67.

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<sup>1</sup>The Overview of the State of Play of WTO Disputes since 1 January 1995 to 31 August 1999 prepared by the Secretariat on its own responsibility is included, for practical purposes, in an Addendum to this report.

<sup>2</sup>WT/DSB/14, Add.1, Add.1/Corr.1 and Add.2.

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**1. Election of Chairperson (WT/DSB/M/55 and Corr.1)**

At the DSB meeting on 17 February 1999, the DSB elected Mr. Nobutoshi Akao (Japan) as Chairman by acclamation.

The representatives of Canada, United States, Ecuador, Australia, Turkey, Argentina, Japan, European Communities, Philippines, also on behalf of the ASEAN Members, and the outgoing Chairman spoke.

The DSB took note of the statements.

**2. Rules of Conduct (WT/DSB/M/54)**

At the DSB meeting on 25, 28 and 29 January and 1 February 1999, the Chairman recalled that at the 25 November 1998 DSB meeting, he had made a statement to the effect that, in accordance with Section IX of the Rules of Conduct "the Rules of Conduct shall be reviewed within two years of their adoption and a decision shall be taken by the DSB as to whether to continue, modify or terminate these Rules". At that meeting he had proposed that, if delegations had no objections, the DSB at its next regular meeting, 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. Since he had not received any objections, he proposed that the DSB decide to continue to apply the current Rules of Conduct as contained in WT/DSB/RC/1 and review them at a later stage, as necessary.

The DSB so agreed.

**3. Review of the DSU (WT/DSB/M/67)**

At the DSB meeting on 20 August 1999, the Chairman recalled that at the 30 July informal DSB meeting on the DSU Review, Members had not been in a position to reach consensus with regard to a possible recommendation on the DSU Review. He noted that since the deadline for completion of the Review had expired on 31 July 1999, further informal discussions to be held would have to be ratified retroactively by the General Council at its meeting on 6 October. He would therefore carry out informal consultations in the beginning of September with a view to finalizing a report on the DSU Review to be presented to the General Council at its meeting scheduled for 6 October.

The DSB took note of the statement.

**4. Indicative list of governmental and non-governmental panelists (WT/DSB/M/54, 55 and Corr.1, 60, 62)**

At its meeting on 25, 28 and 29 January and 1 February 1999, the DSB approved the names contained in document WT/DSB/W/89 proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU.

At its meeting on 17 February 1999, the DSB approved the names contained in document WT/DSB/W/92 proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU.

At its meeting on 28 April 1999, the DSB approved the names contained in document WT/DSB/W/99 proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU.

At its meeting on 26 May 1999, the DSB approved the names contained in document WT/DSB/W/103 proposed for inclusion on the indicative list in accordance with Article 8.4 of the DSU.

#### **5. Adoption of panel reports (WT/DSB/M/62, 63)**

At the DSB meeting on 26 May 1999, the Chairman sought Members' views on the question of how to deal with a situation in which a panel report was not placed on the DSB agenda within the 60-day time-period required under the DSU.

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

The DSB took note of the statements.

At the DSB meeting on 3 June 1999, the Chairman reported on the outcome of his consultations on the question of the adoption of the Report of the original Panel on "European Communities – Regime for the Importation, Sale and Distribution of Bananas – Recourse to Article 21.5 of the DSU by the European Communities (WT/DS27/RW/EEC and Corr.1).

The representatives of Panama, Philippines, United States, Turkey, Uruguay, Brazil, India and Hong Kong, China spoke.

The DSB took note of the statements.

#### **6. Time-periods under Article 16.4 of the DSU expiring in the month of August (WT/DSB/M/65)**

At the DSB meeting on 26 July 1999, the EC representative drew attention to the fact that the 60-day time-period under Article 16.4 of the DSU for adoption of three Panel Reports<sup>3</sup> would expire in August. For practical purposes, the EC proposed that the DSB agree to postpone consideration of these Panel Reports on the understanding that the rights of the parties to appeal would be fully preserved.

The representatives of the European Communities, Korea, Argentina, Chile, Mexico and the Philippines spoke.

The DSB took note of the statements and agreed to the proposal made by the EC to postpone the consideration of the three Panel Reports referred to by the EC.

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<sup>3</sup>Panel Reports on: "Chile - Taxes on Alcoholic Beverages" (WT/DS87/R - WT/DS110/R); "Argentina - Safeguard Measures on Imports of Footwear" (WT/DS121/R); and "Korea - Definitive Safeguard Measure on Imports of Certain Dairy Products" (WT/DS98/R).

**7. Argentina - Measures affecting imports of footwear: Request for the establishment of a panel by the United States (WT/DSB/M/62)**

At the DSB meeting on 26 May 1999, the representative of Argentina expressed his country's concern with regard to the inclusion on the agenda of the special DSB meeting scheduled for 3 June of the US request for the establishment of a panel on this matter (WT/DS164/3). In Argentina's view, the US action violated the current practice to limit the agendas of special meetings to those matters which required the convening of special meetings and could not be postponed due to strict time-periods under the DSU.

The representative of the United States spoke.

The DSB took note of the statements.

**8. European Communities - Measures affecting differential and favourable treatment of coffee: Request for consultations by Brazil (WT/DSB/M/54)**

At the DSB meeting on 25, 28 and 29 January and 1 February 1999, the representative of Colombia expressed his delegation's concern about Brazil's request for consultations with the EC on this matter (WT/DS154/1). Colombia was concerned that Brazil had made its request for consultations under Article XXIII of GATT 1994, thereby preventing other interested parties from participating therein. Colombia believed that the request should have been made under Article XXII of GATT 1994 which would allow interested countries to join in the consultations.

The representative of Colombia, Costa Rica, Honduras, Guatemala, El Salvador, Ecuador, Venezuela, Bolivia and Brazil spoke.

The DSB took note of the statements.

**9. European Communities - Measures affecting the importation of certain poultry products (WT/DSB/M/55 and Corr.1, 57)**

At the DSB meeting on 17 February 1999, the representative of Brazil made a statement concerning the implementation by the EC of the DSB's recommendations on this matter.

The representatives of Brazil and the European Communities spoke.

The DSB took note of the statements.

At the DSB meeting on 19 March 1999, the representative of Brazil made a statement concerning the implementation by the EC of the DSB's recommendations on this matter.

The representative of Brazil and the European Communities spoke.

The DSB took note of the statements.

**10. European Communities - Regime for the importation, sale and distribution of bananas (WT/DSB/M/54)**

At the DSB meeting on 25, 28 and 29 January and 1 February 1999, the representative of Panama sought clarification from the Secretariat as to why a status report on the EC's banana import

regime had not been placed on the agenda of the meeting under the item concerning the surveillance of implementation of the recommendations adopted by the DSB.

The representative of the Secretariat spoke.

The DSB took note of the statements.

## **11. Recourse to dispute settlement procedures**

### **(a) Argentina**

#### *(i) Measures affecting imports of footwear (WT/DSB/M/65)*

At its meeting on 26 July 1999, the DSB considered a request by the United States for the establishment of a panel to examine its complaint with regard to certain measures implemented by Argentina affecting imports of footwear (WT/DS164/4).

The representatives of the United States, Argentina and Indonesia 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.<sup>4</sup>

#### *(ii) Measures affecting the export of bovine hides and the import of finished leather (WT/DSB/M/64, 65)*

At its meeting on 16 June 1999, the DSB considered a request by the European Communities for the establishment of a panel to examine its complaint concerning certain measures taken by Argentina on the export of bovine hides and the imports of finished leather (WT/DS155/2).

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 26 July 1999, 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.

#### *(iii) Safeguard measures on imports of footwear (WT/DSB/M/60)*

At its meeting on 28 April 1999, the DSB considered a request by Indonesia for the establishment of a panel to examine the provisional and definitive safeguard measures and the subsequent modifications imposed by Argentina on imports of footwear (WT/DS123/3).

The representatives of Indonesia, Argentina, European Communities, Uruguay, Venezuela and Hong Kong, China spoke.

The DSB took note of the statements and agreed to revert to this matter at a later date.

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<sup>4</sup>After the meeting Indonesia reserved its third-party rights to participate in the Panel's proceedings.

(b) Australia

(i) *Measures affecting importation of salmon (WT/DSB/M/66)*

At the DSB meeting on 27 and 28 July 1999 the DSB considered a request by Canada under Article 22.2 of the DSU to suspend the application to Australia of tariff concessions and related obligations under the GATT 1994 (WT/DS18/12). Also at that meeting, the DSB considered a request by Canada under Article 21.5 of the DSU for determination of consistency of implementation measures in the salmon case (WT/DS18/14)

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

The DSB took note of the statements and agreed that, as requested by Australia pursuant to Article 22.6 of the DSU, the matter be referred to arbitration to determine the level of suspension of concessions requested by Canada in document WT/DS18/12. The DSB further agreed that the Article 21.5 request by Canada be referred to the original Panel.

(ii) *Measures affecting the importation of salmonids (WT/DSB/M/62, 64)*

At its meeting on 26 May 1999, the DSB considered a request by the United States for the establishment of a panel to examine its complaint with regard to Australia's import prohibition on fresh, chilled or frozen salmonids, including salmon (WT/DS21/4).

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

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

At its meeting on 16 June 1999 the DSB again considered this matter.

The representatives of the United States, Australia, Philippines, India, Malaysia, Korea, European Communities, Canada, Hong Kong, China and the Chairman 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 regard to the terms of reference, the Chairman said that the parties to the dispute would make efforts to try to reach agreement on the terms of reference of the Panel. The DSB took note of the statement made by Australia to the effect that under Article 7.3 of the DSU "the DSB might authorize its Chairman to draw up the terms of reference of a panel in consultation with the parties to the dispute".

The representatives of Canada, European Communities, India, Norway and Hong Kong, China reserved their third-party rights to participate in the Panel's proceedings.<sup>5</sup>

(iii) *Subsidies provided to producers and exporters of automotive leather (WT/DSB/M/64)*

In June 1998<sup>6</sup>, the DSB had established a panel to examine the complaint by the United States with regard to certain subsidies provided by Australia to its producers and exporters of automotive leather.

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<sup>5</sup>After the meeting Iceland reserved its third-party rights to participate in the Panel's proceedings.

<sup>6</sup>WT/DSB/M/46.

At its meeting on 16 June 1999, the DSB considered the Panel Report contained in WT/DS126/R pertaining to the complaint by the United States.

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

The DSB took note of the statements and adopted the Panel Report contained in WT/DS126/R.

(c) Brazil

(i) *Export financing programme for aircraft (WT/DSB/M/67)*

In July 1998<sup>7</sup> the DSB had established a panel to examine the complaint by Canada with regard to certain export subsidies granted under the Brazilian *Programa de Financiamento às Exportações* (PROEX). In May 1999 Brazil and Canada had notified the DSB of their decisions to appeal certain issues of law and legal interpretations developed by the Panel.

At its meeting on 20 August 1999, the DSB considered the Appellate Body Report in WT/DS46/AB/R and the Panel Report in WT/DS46/R pertaining to the complaint by Canada.

The representatives of Canada and Brazil spoke.

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS46/AB/R and the Panel Report in WT/DS46/R as modified by the Appellate Body Report.

(d) Canada

(i) *Certain measures affecting the automotive industry (WT/DSB/M/54)*

At its meeting on 25, 28 and 29 January and 1 February 1999, the DSB considered two requests for the establishment of a panel to examine the complaints by Japan (WT/DS139/2) and the European Communities (WT/DS142/2) with regard to certain aspects of Canada's automotive trade regime.

The representatives of Japan, European Communities and Canada spoke.

The DSB took note of the statements and agreed to establish a single panel in accordance with the provisions of Article 9.1 of the DSU, with standard terms of reference.

India, Korea and the United States reserved their third-party rights to participate in the Panel's proceedings.

(ii) *Measures affecting the export of civilian aircraft (WT/DSB/M/67)*

In July 1998<sup>8</sup> the DSB had established a panel to examine the complaint by Brazil with regard to certain subsidies granted by Canada to support its export of civilian aircraft. In May 1999 Canada and Brazil had notified the DSB of their decisions to appeal certain issues of law and legal interpretations developed by the Panel.

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<sup>7</sup>WT/DSB/M/47.

<sup>8</sup>WT/DSB/M/47.



At its meeting on 20 August 1999, the DSB considered the Appellate Body Report in WT/DS70/AB/R and the Panel Report in WT/DS70/R pertaining to the complaint by Brazil.

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

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS70/AB/R and the Panel Report in WT/DS70/R as upheld by the Appellate Body Report.

(iii) *Patent protection of pharmaceutical products (WT/DSB/M/54)*

At its meeting on 25, 28 and 29 January and 1 February 1999, 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 representative of the European Communities 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, Brazil, Cuba, India, Israel, Japan, Poland, Switzerland and the United States reserved their third-party rights to participate in the Panel's proceedings.<sup>9</sup>

(iv) *Terms of patent protection (WT/DSB/M/65)*

At its meeting on 26 July 1999, the DSB considered a request by the United States for the establishment of a panel to examine its complaint with regard to the grant of patent terms in Canada (WT/DS170/2).

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

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

(e) European Communities

(i) *Measures concerning meat and meat products (hormones) (WT/DSB/M/63, 65)*

At its meeting on 3 June 1999, the DSB considered the requests by the United States (WT/DS26/19) and Canada (WT/DS48/17) under Article 22.2 of the DSU for suspension of the application to the European Communities and its member States of tariff concessions and related obligations under the GATT 1994.

The representatives of the European Communities, United States, Canada, Philippines, India, Bulgaria, Uruguay and Hong Kong, China spoke.

The DSB took note of the statements and that, in light of the EC's request, each matter shall be referred to arbitration by the original Panel in accordance with Article 22.6 of the DSU.

At its meeting on 26 July 1999, the DSB considered the requests under Article 22.7 of the DSU by the United States (WT/DS26/21) and Canada (WT/DS48/19) for suspension of the

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<sup>9</sup>After the meeting Colombia and Thailand reserved their third party-rights to participate in the panel's proceedings.

application to the European Communities and its member States of tariff concessions and related obligations under the GATT 1994.

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

The DSB took note of the statements and, pursuant to the requests under Article 22.7 of the DSU by the United States (WT/DS26/21) and Canada (WT/DS48/19), agreed to grant authorization to suspend the application to the European Communities and its member States of tariff concessions and related obligations under the GATT 1994, consistent with the Decisions of the Arbitrators contained in documents WT/DS26/ARB and WT/DS48/ARB, respectively.

(ii) *Regime for the importation, sale and distribution of bananas (WT/DSB/M/53, 54, 59)*

At its meeting on 12 January 1999, the DSB considered Ecuador's request to reconvene the original Panel under Article 21.5 of the DSU to examine the implementation of the DSB's recommendations in the matter "European Communities - Regime for the Importation, Sale and Distribution of Bananas (WT/DS27/41).

The representatives of Ecuador, European Communities, Mexico, Japan and the Chairman spoke.

The DSB took note of the statements and agreed to refer to the original Panel, pursuant to Article 21.5 of the DSU, the matter raised by Ecuador in document WT/DS27/41. It was agreed that the panel would have standard terms of reference.

Colombia, Costa Rica, Côte d'Ivoire, Dominica, Dominican Republic, Jamaica, Mauritius, Nicaragua, Saint Lucia and Saint Vincent and the Grenadines reserved their third-party rights to participate in the Panel's proceedings.<sup>10</sup>

Also at its meeting on 12 January 1999, the DSB considered the EC's request to reconvene the original Panel, under Article 21.5 of the DSU to examine the implementation of the DSB's recommendations in the matter, "European Communities - Regime for the Importation, Sale and Distribution of Bananas" (WT/DS27/40).

The representatives of the European Communities, United States, Panama, Guatemala, Honduras, Saint Lucia, Philippines, Mexico, Ecuador, India and the Chairman spoke.

The DSB took note of the statements and agreed to refer to the original Panel, pursuant to Article 21.5 of the DSU, the matter raised by the European Communities in document WT/DS27/40. It was agreed that the panel would have standard terms of reference.

Colombia, Costa Rica, Côte d'Ivoire, Dominica, Dominican Republic, India, Jamaica, Mauritius, Nicaragua, Saint Lucia and Saint Vincent and the Grenadines reserved their third-party rights to participate in the panel's proceedings.<sup>11</sup>

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<sup>10</sup>After the meeting Belize, Brazil, Cameroon, Grenada and Haiti reserved their third-party rights to participate in the Panel's proceedings.

<sup>11</sup>After the meeting, Belize, Cameroon, Grenada, Haiti and Japan reserved their third-party rights to participate in the Panel's proceedings.

At the DSB meeting on 25, 28 and 29 January and 1 February 1999, prior to the adoption of the agenda, there was a procedural debate on the question of whether the DSB was competent to deal with the US request for suspension of concessions (WT/DS27/43).

The representatives of Dominica, United States, Colombia, India, Saint Lucia, Honduras, European Communities, Côte d'Ivoire, Panama, Guatemala, Turkey, Japan, Philippines, Ecuador, Canada, Mexico, the Director-General and the Chairman spoke.

Following the adoption of the agenda, the DSB considered the US request under Article 22.2 of the DSU for suspension of the application to the European Communities and its member States of tariff concessions and related obligations under the GATT 1994 (WT/DS27/43).

The representatives of Saint Lucia, United States, European Communities, Mauritius, Japan, Philippines, Dominica, India, Honduras, Trinidad and Tobago, Hungary, also on behalf of Bulgaria, Czech Republic, Poland, Romania, Slovak Republic and Slovenia, and the representatives of Switzerland, Norway, Panama, Barbados, Indonesia, Canada, Colombia, Jamaica, Korea, Brazil, Guatemala, Australia, Argentina, New Zealand, Egypt, Turkey, Malaysia and the Chairman spoke.

The DSB took note of the statements and agreed that the matter be referred to arbitration by the original Panel in accordance with Article 22.6 of the DSU.

At its meeting on 19 April 1999, the DSB considered the request by the United States under Article 22.7 of the DSU for suspension of the application to the European Communities and its member States of tariff concessions and related obligations under the GATT 1994 (WT/DS27/49).

The representatives of the United States, European Communities, Japan, Panama, Brazil, India, Mexico, Guatemala, Côte d'Ivoire, Jamaica, Philippines, Egypt, Australia, Mauritius, Indonesia, Norway and the Chairman spoke.

The DSB took note of the statements and pursuant to the US request under Article 22.7 of the DSU, agreed to grant authorization to suspend the application to the European Communities of tariff concessions and related obligations under the GATT 1994, consistent with the Decision of the Arbitrators contained in document WT/DS27/ARB.

(iii) *Regime for the importation, sale and distribution of bananas - Recourse to Article 21.5 of the DSU by Ecuador (WT/DSB/M/61, 63)*

At its meeting on 6 May 1999, the DSB considered the Report of the original Panel reconvened in accordance with Article 21.5 of the DSU at the request of Ecuador to examine the implementation of the DSB's recommendations in the matter of "European Communities - Regime for the Importation, Sale and Distribution of Bananas" (WT/DS27/RW/ECU).

The representatives of Ecuador, European Communities, United States, Guatemala, Panama, Costa Rica, Australia, Brazil, Colombia, Japan, Mexico, India, Jamaica, Côte d'Ivoire, Turkey and Hong Kong, China spoke.

The DSB took note of the statements and adopted the Panel Report contained in WT/DS27/RW/ECU.

At the DSB meeting on 3 June 1999, the representative of Ecuador made a statement concerning the implementation by the EC of the DSB's recommendations on this matter. He requested the EC to report on its progress towards implementation.

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

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

(f) Guatemala

(i) *Definitive anti-dumping measure on grey Portland cement from Mexico (WT/DSB/M/65)*

At its meeting on 26 July 1999, the DSB considered a request by Mexico for the establishment of a panel to examine its complaint with regard to Guatemala's definitive anti-dumping measure on grey Portland cement from Mexico (WT/DS156/2).

The representatives of Mexico and Guatemala spoke.

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

(g) Japan

(i) *Measures affecting agricultural products (WT/DSB/M/57, 58)*

In November 1997,<sup>12</sup> the DSB had established a panel to examine the complaint by the United States with regard to Japan's prohibition of imports of agricultural products. In November 1998, Japan had notified the DSB of its decision to appeal certain issues of law and legal interpretations developed by the Panel.

At its meeting on 19 March 1999, the DSB considered the Appellate Body Report in WT/DS76/AB/R and the Panel Report in WT/DS76/R pertaining to the complaint by the United States.

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

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS76/AB/R and the Panel Report in WT/DS76/R as modified by the Appellate Body Report.

At the DSB meeting on 15 July 1999, the representative of Japan informed the DSB of his country's intentions in respect of implementation of the DSB's recommendations on this matter. He said that Japan would consult with the United States on a reasonable period of time for implementation.

The representatives of Japan, United States and Australia spoke.

The DSB took note of the statements and of the information provided by Japan in respect of implementation of the DSB's recommendations.

(h) Korea

(i) *Measures affecting government procurement (WT/DSB/M/62, 64)*

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<sup>12</sup>WT/DSB/M/39.

At its meeting on 26 May 1999, the DSB considered a request by the United States for the establishment of a panel to examine its complaint with regard to Korea's airport procurement practices (WT/DS163/4).

The representatives of the United States and Korea spoke.

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

At its meeting on 16 June 1999, the DSB again considered this matter.

The representatives of the United States and Korea 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 European Communities and Japan reserved their third-party rights to participate in the Panel's proceedings.

(ii) *Measures affecting imports of fresh, chilled and frozen beef (WT/DSB/M/60, 62, 65)*

At its meeting on 28 April 1999, the DSB considered a request by the United States for the establishment of a panel to examine its complaint with regard to Korea's restrictions on imports of beef (WT/DS161/5).

The representatives of the United States and Korea spoke.

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

At its meeting on 26 May 1999, the DSB again considered this matter.

The representatives of the United States and Korea 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, Canada and New Zealand reserved their third-party rights to participate in the Panel's proceedings.

At its meeting on 26 July 1999, the DSB considered a request by Australia for the establishment of a panel to examine its complaint on Korea's restrictions on imports of beef (WT/DS169/5).

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

The DSB took note of the statements and agreed that Australia's request for the establishment of a panel with standard terms of reference be accepted, and that as provided for in Article 9 of the DSU in respect of multiple complainants, the Panel established on 26 May 1999 to examine the complaint by the United States contained in WT/DS161/5 would also examine Australia's complaint in document WT/DS169/5.

Canada, New Zealand and the United States reserved their third-party rights to participate in the proceedings of the Panel established at the request of Australia.

(iii) *Taxes on alcoholic beverages (WT/DSB/M/55 and Corr.1, 57, 60)*

In October 1997<sup>13</sup>, the DSB agreed to establish a single panel to examine the complaints by the European Communities and the United States. In October 1998, Korea notified the DSB of its decision to appeal certain issues of law and legal interpretations developed by the Panel.

At its meeting on 17 February 1999, the DSB considered the Appellate Body Report in WT/DS75/AB/R - WT/DS84/AB/R and the Panel Report in WT/DS75/R - WT/DS84/R pertaining to the complaints by the European Communities and the United States.

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

The DSB took note of the statements and adopted the Appellate Body Report in WT/DS75/AB/R - WT/DS84/AB/R and the Panel Report in WT/DS75/R - WT/DS84/R as upheld by the Appellate Body Report.

At the DSB meeting on 19 March 1999, the representative of Korea informed the DSB of his country's intentions in respect of implementation of the DSB's recommendations pursuant to Article 21.3 of the DSU. He said that in light of its legislative process, Korea would require a reasonable period of time in order to comply with the DSB's recommendations.

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

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

At the DSB meeting on 28 April 1999, the representative of Korea informed the DSB that the United States and Korea had agreed on 23 April 1999 to appoint Mr. C.-D. Ehlermann as arbitrator to determine a reasonable period of time for implementation of the DSB's recommendation in the case: "Korea - Taxes on Alcoholic Beverages".

The DSB took note of the statement.

(i) United States

(i) *Anti-Dumping Act of 1916 (WT/DSB/M/54, 64, 65)*

At its meeting on 25, 28 and 29 January and 1 February 1999, the DSB considered a request by the European Communities for the establishment of a panel to examine its complaint with respect 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 establish a panel in accordance with the provisions of Article 6 of the DSU with standard terms of reference.

India, Japan and Mexico reserved their third-party rights to participate in the Panel's proceedings.

At its meeting on 16 June 1999, the DSB considered a request by Japan for the establishment of a panel to examine its complaint with respect to the US Anti-Dumping Act of 1916 (WT/DS162/3).

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<sup>13</sup>WT/DSB/M/38.

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

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

At its meeting on 26 July 1999, the DSB again considered this matter.

The representatives of Japan 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.

The European Communities and India reserved their third-party rights to participate in the Panel's proceedings.

(ii) *Anti-dumping duty on dynamic random access memory semiconductors (DRAMs) of one megabit or above from Korea (WT/DSB/M/57, 58, 65)*

In January 1998,<sup>14</sup> the DSB had agreed to establish a panel to examine the complaint by Korea 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 megabit or above from Korea.

At its meeting on 19 March 1999, the DSB considered the Panel Report in WT/DS99/R pertaining to the complaint by Korea.

The representatives of Korea, United States and Hong Kong, China spoke.

The DSB took note of the statements and adopted the Panel Report contained in WT/DS99/R.

At the DSB meeting on 15 April 1999, the US representative informed the DSB of her country's intentions in respect of implementation of the DSB's recommendations on this matter. She said that the United States would require a reasonable period of time to comply with the DSB's recommendations.

The representatives of the United States and Korea 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.

At the DSB meeting on 26 July 1999, the US representative informed the DSB that her country and Korea had agreed that the United States would have eight months, until 19 November 1999, as a reasonable period of time for implementation of the DSB's recommendations in this matter.

The representatives of the United States and Korea spoke.

The DSB took note of the statements.

(iii) *Definitive safeguard measures on imports of wheat gluten from the European Communities (WT/DSB/M/64, 65)*

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<sup>14</sup>WT/DSB/M/40.

At its meeting on 16 June 1999, the DSB considered a request by the European Communities for the establishment of a panel to examine its complaint with respect to definitive safeguard measures imposed by the United States on imports of wheat gluten from the EC (WT/DS166/3)

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 26 July 1999, 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.

Australia and New Zealand reserved their third-party rights to participate in the Panel's proceedings.<sup>15</sup>

(iv) *Import measures on certain products from the European Communities (WT/DSB/M/62, 64)*

At its meeting on 26 May 1999, the DSB considered a request by the European Communities to examine its complaint with respect to the US decision, effective from 3 March 1999, to withhold liquidation on imports from the EC of certain products, and to impose a contingent liability for 100 per cent duties on individual importation of affected products (WT/DS165/8).

The representatives of the European Communities and United States spoke.

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

At its meeting on 16 June 1999, the DSB again considered this matter.

The representatives of the European Communities, United States and the Philippines 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.

Ecuador, India, Jamaica and Japan reserved their third-party rights to participate in the Panel's proceedings.

(v) *Import prohibition of certain shrimp and shrimp products (WT/DSB/M/54)*

At the DSB meeting on 25, 28 and 29 January and 1 February 1999, the representative of India, also on behalf of Malaysia, Pakistan and Thailand, informed the DSB that on 21 January 1999 the parties to the dispute had agreed that the United States would have 13 months from 6 November 1998, the date of the adoption of the Panel and Appellate Body Reports, to comply with the DSB's recommendations on this matter.

The representative of the United States spoke.

The DSB took note of the statements.

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<sup>15</sup>After the meeting Canada reserved its third-party rights to participate in the panel's proceedings.



(vi) *Imposition of countervailing duties on certain hot-rolled lead and bismuth carbon steel products originating in the United Kingdom (WT/DSB/M/54, 55 and Corr.1)*

At its meeting on 25, 28 and 29 January and 1 February 1999, the DSB considered a request by the European Communities for the establishment of a panel to examine the US countervailing duties on certain hot-rolled lead and bismuth carbon steel products originating in the United Kingdom (WT/DS138/3 and Corr.1)

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 17 February 1999, the DSB again considered this matter.

The representatives of the European Communities, 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.

The representatives of Brazil and Mexico reserved their third-party rights to participate in the Panel's proceedings.

(vii) *Section 110(5) of the US Copyright Act (WT/DSB/M/60, 62)*

At its meeting on 28 April 1999, the DSB considered a request by the European Communities and their member States for the establishment of a panel to examine Section 110(5) of the US Copyright Act, as amended by the Fairness in Music Licensing Act (WT/DS160/5).

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 26 May 1999, 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.

Australia, Japan and Switzerland reserved their third-party rights to participate in the Panel's proceedings.<sup>16</sup>

(viii) *Sections 301 - 310 of the Trade Act of 1974 (WT/DSB/M/55 and Corr.1, 56)*

At its meeting on 17 February 1999, the DSB considered a request by the European Communities for the establishment of a panel to examine its complaint with regard to Sections 301 - 310 of the US Trade Act of 1974 (WT/DS152/11).

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

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<sup>16</sup>After the meeting Brazil and Canada reserved their third-party rights to participate in the Panel's proceedings.

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

At its meeting on 2 March 1999, 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.

Cameroon, Canada, Colombia, Dominica, Ecuador, India, Jamaica, Japan, Korea, Saint Lucia and Thailand reserved their third-party rights to participate in the Panel's proceedings.<sup>17</sup>

## **12. 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) Argentina

(i) *Measures affecting imports of footwear, textiles, apparel and other items (WT/DSB/M/54, 55 and Corr.1, 57, 60, 62, 64)*

At the DSB meeting on 25, 28 and 29 January and 1 February 1999, Argentina informed the DSB that the parties to the dispute had agreed that Argentina's first status report on its progress in the implementation of the DSB's recommendations on this matter would be submitted at the next regular DSB meeting (WT/DS56/15).

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

At its meeting on 17 February 1999, the DSB considered the first status report by Argentina contained in WT/DS56/15/Add.1.

The representative of Argentina spoke.

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

At its meeting on 19 March 1999, the DSB considered the second status report by Argentina contained in WT/DS56/15/Add.2.

The representatives of Argentina and the United States spoke.

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<sup>17</sup>Subsequently Cameroon notified the Secretariat of its withdrawal. After the meeting Brazil, Costa Rica, Cuba, Dominican Republic, Israel and Hong Kong, China reserved their third-party rights to participate in the Panel's proceedings.

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

At its meeting on 28 April 1999, the DSB considered the third status report by Argentina contained in WT/DS56/15/Add.3.

The representative of Argentina spoke.

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

At its meeting on 26 May 1999, the DSB considered the fourth status report by Argentina contained in WT/DS56/15/Add.4.

The representative of Argentina spoke.

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

At its meeting on 16 June 1999, the DSB considered the final status report by Argentina contained in WT/DS56/15/Add.5.

The representative of Argentina spoke.

The DSB took note of the statement.

(b) European Communities

(i) *Measures concerning meat and meat products (hormones) (WT/DSB/M/54, 55 and Corr.1, 57, 60, 62).*

At its meeting on 25, 28 and 29 January and 1 February 1999, the DSB considered the first status report by the EC on its progress in the implementation of the DSB's recommendations on this matter (WT/DS26/17 - WT/DS48/15).

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

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

At its meeting on 17 February 1999, the DSB considered the second status report by the European Communities contained in WT/DS26/17/Add.1 - WT/DS48/15/Add.1.

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

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

At its meeting on 19 March 1999, the DSB considered the third status report by the European Communities contained in WT/DS26/17/Add.2 - WT/DS48/15/Add.2).

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

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

At its meeting on 28 April 1999, the DSB considered the fourth status report by the European Communities contained in WT/DS26/17/Add.3 - WT/DS48/15/Add.3.

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

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

At its meeting on 26 May 1999, the DSB considered the fifth status report by the European Communities contained in WT/DS26/17/Add.4 - WT/DS48/15/Add.4.

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

The DSB took note of the statements and agreed to revert to this matter at its meeting on 3 June.

(ii) *Regime for the importation, sale and distribution of bananas - Recourse to Article 21.5 of the DSU by Ecuador (WT/DSB/M/64, 65)*

At the DSB meeting on 16 June 1999, the EC representative made an oral report on the EC's progress in the implementation of the DSB's recommendations on this matter.

The representatives of the European Communities, Ecuador, Panama, Guatemala, Colombia, Honduras, Philippines and the Chairman spoke.

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

At its meeting on 26 July 1999, the DSB considered the EC's status report on its progress in the implementation of the DSB's recommendations on this matter (WT/DS27/51).

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

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

(c) India

(i) *Patent protection for pharmaceutical and agricultural chemical products (WT/DSB/M/54, 55 and Corr.1, 57, 60)*

At its meeting on 25, 28 and 29 January and 1 February 1999, the DSB considered India's second status report on its progress in the implementation of the DSB's recommendations on this matter (WT/DS50/10/Add.1).

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.

At its meeting on 17 February 1999, the DSB considered the third status report by India contained in WT/DS50/10/Add.2.

The representatives of India, 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 19 March 1999, the DSB considered the fourth status report by India contained in WT/DS50/10/Add.3.

The representatives of India, 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 28 April 1999, the DSB considered the final status report by India contained in WT/DS50/10/Add.4 - WT/DS79/6.

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

The DSB took note of the statements.

(d) Indonesia

(i) *Certain measures affecting the automobile industry (WT/DSB/M/64, 65)*

At its meeting on 16 June 1999, the DSB considered the first status report by Indonesia on its progress in the implementation of the DSB's recommendations on this matter (WT/DS54/17 - WT/DS55/16 - WT/DS59/15 - WT/DS64/14).

The representatives of Indonesia, European Communities and Japan spoke.

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

At its meeting on 26 July 1999, the DSB considered the second status report by Indonesia contained in WT/DS54/17/Add.1 - WT/DS55/16/Add.1 - WT/DS59/15/Add.1 - WT/DS64/14/Add.1.

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

The DSB took note of the statements.

(e) United States

(i) *Import prohibition of certain shrimp and shrimp products (WT/DSB/M/65)*

At its meeting on 26 July 1999, the DSB considered the first status report by the United States on its progress in the implementation of the DSB's recommendations on this matter (WT/DS58/15).

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

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

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