NEGOTIATING HISTORY OF ARTICLE 18:9 AND THE TREATMENT OF REPORTS OF WORKING PARTIES AND PANELS UNDER ARTICLE XXIII OF THE GENERAL AGREEMENT

Factual note by the secretariat

1. At the meeting of the Committee on Subsidies and Countervailing Measures on 29 April 1983, the secretariat was requested to prepare, prior to the next meeting of the Committee on 19 May 1983, a factual note which would contain a description of the negotiating history of Article 18:9, to the extent that any records exist, and of the treatment of reports of working parties and panels, established under the dispute settlement procedures of the GATT, by the CONTRACTING PARTIES.

A. Negotiating history of Article 18:9

2. The first draft of an unofficial working paper entitled "Subsidies/Countervailing Measures - Outline of Approach" sent by the United States to some delegations on 27 March 1978 did not contain provisions on dispute settlement. There was only a reference, under Section "E. Notification, Consultation and Dispute Resolution Procedures" which read "draft provision to be presented by the European Communities".

3. On 5 April 1978 the EEC negotiators submitted an unofficial paper which, under section "B. Consultations under GATT Article XVI/XXIII" contained the following provisions concerning a possible follow-up to the conciliation process by "an international body":

"(iv) If the body considered that it would facilitate the conciliation of differences between the parties, it may address recommendations to them.

(v) As in the case of consultations under the Article VI 'track', signatories should endeavour to accept in full the recommendations of the body. Whenever they consider themselves unable to follow any such recommendations, they should forthwith inform the body and the other signatory(ies) concerned of the reasons therefor and of the extent, if any, to which they are able to follow the recommendations."
If, following recommendations by the body, problems continue to exist between the signatories, either may bring the matter before the CONTRACTING PARTIES through the procedures laid down in Article XXIII. The CONTRACTING PARTIES would adopt a final decision on the matter, in conformity with Article XXIII:2, taking into account any recommendations and observations of the body."

4. A draft of the Agreement discussed among certain delegations on 9 June 1978 contained a Section IV - "Dispute Settlement". This Section was accompanied by a note which stated that "Final agreement on provisions on dispute settlement should take into account general provisions developed in the course of the MTN, as adopted, as necessary for the context of an Arrangement on Subsidy/Countervailing Measures". There was no paragraph which would correspond to the present Article 18:9. The last paragraph in that Section corresponded to the present Article 18:8.

5. In all subsequent drafts circulated until 13 December 1978 in MTN documents or unnumbered working papers, the Section entitled "Dispute Settlement" reproduced the relevant text circulated in the Group "Framework" in document MTN/INF/29/Rev.1. This Section was accompanied by the following note: "The dispute settlement provisions set out below have been developed by some delegations from the provisions of MTN/INF/29/Rev.1. Other delegations have not discussed these provisions." (See for example MTN/NTM/W/168).

6. In a working paper dated 13 December 1978, the Framework text was replaced by a new text (contained in Part III - "Application of Article XXIII" Section B - "Dispute Settlement") which corresponded to a large extent to the present Article 18. It did not, however, contain a paragraph corresponding to the present paragraph 9. There was only a reference that language on consideration of panel reports by the Committee, recommendations, authorized countermeasures, etc., shall be inserted.

7. A working paper dated 15 December 1978 which subsequently, with minor amendments, was circulated as MTN/NTM/W/210 contained in Part III - "Application of Article XXIII" Section B - "Dispute Settlement", a paragraph 9 that was almost identical to the present paragraph 9 of Article 18. The only difference was that in the second sentence after the words "If the Committee's recommendations are not followed within a reasonable period", there were the additional words "or if other circumstances so warrant" which were subsequently deleted.
B. Treatment of reports of Working Parties and Panels under Article XXIII of the General Agreement

8. Attached to this note are two lists, chronological and country-wise, of complaints brought under Article XXIII:2. They show the following situation as of end-April 1983:

Total complaints since 1948: 73 (without item 29)

- 48 cases referred to panels
- 8 cases referred to working parties
- 1 case referred to a group of experts (item 19),
- 1 case directly disposed by the CONTRACTING PARTIES (item 3),
- 8 cases settled while before the CONTRACTING PARTIES (items 11, 15, 17, 18, 22, 32, 34, 47),
- 4 cases not pursued by the contracting parties concerned (items 16, 30, 62, 67),
- 3 cases still pending before the CONTRACTING PARTIES (items 71, 72, 74).

9. The outcome of the Panel and Working Party proceedings were as follows:

- 7 working party reports adopted by the CONTRACTING PARTIES,
- 1 working party report not acted upon as matter was considered settled (item 13),
- 37 panel reports adopted by the CONTRACTING PARTIES (four of them subject to an understanding: items 37-40; the panels dealing with items 25 and 36 delivered 3 and 2 reports respectively),
- 1 panel report adopted "in principle" by the CONTRACTING PARTIES (item 48),
- 2 panel reports were taken note of by the CONTRACTING PARTIES as matter was considered settled (items 14, 26),
- 1 panel report was taken note of after complainant was no longer asking for a finding or recommendation (item 54),
- 2 matters were settled before panel met (items 20, 24),
- 8 panel proceedings continue to be pending (items 63, 64, 65, 66, 68, 69, 70, 73).

No panel report or working party report was ever rejected by the CONTRACTING PARTIES.
Annex

Dispute Settlement by the CONTRACTING PARTIES and by the Council

A. Tabular list of Article XXIII complaints in chronological order

1 In footnote 1 to the "Agreed Description of the Customary Practice of the GATT in the Field of Dispute Settlement" which is annexed to the "Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance" of 28 November 1979, it is noted: "The Council is empowered to act for the CONTRACTING PARTIES in accordance with normal GATT practice" (268/215).

2 In some cases, the provisions of Article XXIII were not expressly invoked. Consultations under Article XXII or under other Articles (e.g. Article XVI:1), "Chairman rulings" (see e.g. 25/12, 35) and some complaints which were disposed of before or subsequent to consultations, are not included in the list.
<table>
<thead>
<tr>
<th>No.</th>
<th>Description of Case</th>
<th>Date of complaint</th>
<th>Complaint by/versus</th>
<th>Referred to</th>
<th>Action taken</th>
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<tbody>
<tr>
<td>1.</td>
<td>Import restrictions</td>
<td>September 1948</td>
<td>USA/Cuba</td>
<td>Working Party</td>
<td>The CONTRACTING PARTIES adopted the Working Party report which announced settlement reached among the parties and abstained from legal ruling. Import regulations were terminated in 1948.</td>
<td>CP.2/SR.22 CP.2/43 CP.2/SR.25</td>
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<td>2.</td>
<td>Internal taxes</td>
<td>1949, 1950</td>
<td>France/Brazil</td>
<td>Working Party</td>
<td>Brazil was asked to liberalize its discriminatory internal taxes and to report further. Rights of France under XXIII were confirmed. Measure was abolished August 1958.</td>
<td>CP.3/SR.9 II/181 2S/25 4S/21 5S/36 7S/68</td>
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<td>3.</td>
<td>Export restrictions</td>
<td>May 1949</td>
<td>Czechoslovakia/USA</td>
<td>Contracting Parties</td>
<td>The Contracting Parties rejected the complaint.</td>
<td>II/28 CP.3/SR.2</td>
</tr>
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<td>4.</td>
<td>Subsidy on ammonium sulphate</td>
<td>July 1949</td>
<td>Chile/Australia</td>
<td>Working Party</td>
<td>The Working Party found that there was a prima facie case that the value of a concession granted to Chile had been impaired as a result of a subsidy which did not conflict with the provisions of the GATT, Australia dissented. Agreement reached on the matter was notified in November 1950.</td>
<td>II/188 CP.5/SR 7S/68 CP.5/SR.6</td>
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<td>6.</td>
<td>Family allowances</td>
<td>March 1951</td>
<td>Norway and Denmark/Belgium</td>
<td>Panel</td>
<td>The Belgian legislation was found inconsistent with Article 1 (and possibly III:2) and based on a concept inconsistent with the spirit of the Agreement. Panel recommended to expedite changes in the legislation. Measure was terminated by a new law on 6 March 1954.</td>
<td>18/59, 28/18, L/187, 78/68</td>
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<td>7.</td>
<td>Import restrictions on dairy products</td>
<td>September 1951</td>
<td>Netherlands/USA</td>
<td>Working Party</td>
<td>The Working Party never met. The USA were asked to remove restrictions within a reasonable time-limit and report further to the Contracting Parties. Failing progress, the Contracting Parties authorized Netherlands to avail itself of Article XXIII:2 benefits. Concessions were suspended by the Netherlands on wheat flour, subject to annual &quot;determination&quot; by the Contracting Parties.</td>
<td>11/16, 18/31,32,62, 28/28, 38/46, 48/31,99, 58/28,142, 68/14,157, 78/23,128</td>
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<td>8.</td>
<td>Treatment of sardine imports</td>
<td>September 1952</td>
<td>Norway/Germany</td>
<td>Panel</td>
<td>The Panel recommended that Germany consider ways of removing the competitive inequality between different types of sardine imports as regards the imposition of duties and taxes. The case was disposed of in 1953.</td>
<td>L/16, 18/30,53, SR.8/18</td>
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<td>9.</td>
<td>Increase of import duties (coefficient for currency conversion)</td>
<td>September 1952</td>
<td>UK / Greece</td>
<td>Panel</td>
<td>Measure was rescinded, 20 July 1953.</td>
<td>L/15, 15/23, 51, SR.8/7</td>
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<td>10.</td>
<td>Special import taxes (&quot;contribution&quot; levied on certain imports)</td>
<td>October 1952</td>
<td>France / Greece</td>
<td>Panel</td>
<td>Decision was deferred and matter referred to Contracting Parties for decision on principles. Measure was terminated April 1953.</td>
<td>15/48, SR.8/7</td>
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<td>11.</td>
<td>Statistical tax on imports and exports</td>
<td>November 1952</td>
<td>USA / France</td>
<td>Contracting Parties</td>
<td>Measure suspended 1 October 1954 and abolished as of 1 January 1955.</td>
<td>SR.8/7, SR.9/28</td>
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<td>13.</td>
<td>Special temporary compensation tax on imports</td>
<td>July 1954</td>
<td>Italy / France</td>
<td>Contracting Parties, Working Party</td>
<td>Decisions urging removal of tax. Measure was partially removed as first step, abolished August 1957, and replaced by other measures. The matter was considered as settled.</td>
<td>L/213, 366, 406, 412, 585, 622, 643, 657, 671, 38/26, 48/20, 58/27, SR.12/5, IC/SR.34</td>
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<td>14.</td>
<td>Import duties on starch and potato flour</td>
<td>October 1954</td>
<td>Benelux countries/ Germany</td>
<td>Panel</td>
<td>Following the Panel report, Germany proposed tariff concessions which were found acceptable.</td>
<td>L/260, 38/77, SR.9/34</td>
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<td>15.</td>
<td>Luxury import tax</td>
<td>October 1954</td>
<td>Italy/ Greece</td>
<td>Contracting Parties</td>
<td>Matter settled in consultations.</td>
<td>L/234, SR.9/7,30</td>
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<td>16.</td>
<td>Stamp tax, increase to 2 per cent</td>
<td>October 1954</td>
<td>USA/ France</td>
<td>Contracting Parties</td>
<td>Complaint was withdrawn.</td>
<td>L/245, SR.9/28</td>
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<td>17.</td>
<td>Stamp tax, further increase to 3 per cent</td>
<td>September 1955</td>
<td>USA/ France</td>
<td>Contracting Parties</td>
<td>French undertaking to cancel increase as soon as possible. Stamp tax reduced to 2 per cent as from 1 January 1961.</td>
<td>L/410, L/569,720, L/1412</td>
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<td>18.</td>
<td>US (Hawaiian) Regulations affecting imported eggs</td>
<td>September 1955</td>
<td>Australia/ USA</td>
<td>Contracting Parties</td>
<td>Discussion was deferred pending State court legal action. The court invalidated the regulation requiring &quot;We sell Foreign eggs&quot; sign as violating Article 111.</td>
<td>L/411, SR.10/13</td>
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<td>19.</td>
<td>Increase in bound duties (long-playing records)</td>
<td>November 1956</td>
<td>Germany/ Greece</td>
<td>Group of Experts</td>
<td>Following the report of customs experts, the parties agreed on a compromise duty rate in November 1957. Germany withdrew complaint.</td>
<td>L/575, L/580, L/765, SR.12/21</td>
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<td>20.</td>
<td>Exports of subsidized eggs</td>
<td>April 1957</td>
<td>Denmark/ UK</td>
<td>Intersessional Committee and Panel</td>
<td>Panel appointed, but never met due to settlement of complaints.</td>
<td>L/627</td>
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<td>7S/23,60</td>
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<td>SR.17/5</td>
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<td>22.</td>
<td>Discrimination against imported agricultural machinery</td>
<td>October 1957</td>
<td>UK/ France</td>
<td>Contracting Parties</td>
<td>Discrimination removed with retroactive effect.</td>
<td>SR.12/5</td>
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<td>SR.13/7</td>
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<td>23.</td>
<td>Assistance to exports of wheat flour</td>
<td>April/May 1958</td>
<td>Australia/ France</td>
<td>Panel (for conciliation)</td>
<td>Recommendation for a revision of the methods of financing or for consultations between parties before new contracts were concluded by France. Agreement between the parties reached in April 1960.</td>
<td>7S/22,46</td>
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<td>L/1548</td>
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<td>24.</td>
<td>Assistance to exports of flour</td>
<td>September 1958</td>
<td>Australia/ Italy</td>
<td>Panel</td>
<td>Settled on basis of revised subsidy programme.</td>
<td>L/853</td>
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<td>25.</td>
<td>Recourse to Article XXIII (Primary products)</td>
<td>November 1961</td>
<td>Uruguay/15 developed countries</td>
<td>Panel</td>
<td>Panel made recommendations addressed to seven countries to submit information. Seven countries reported back, in 1963, their full compliance with GATT. Panel then made recommendation to seven others to give immediate consideration to removal of certain impairing or nullifying measures.</td>
<td>L/1647 L/1662 11S/95,56 13S/35,45</td>
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<td>26.</td>
<td>Increase in margin of preferences on bananas</td>
<td>December 1961</td>
<td>Brazil/UK</td>
<td>Panel</td>
<td>Panel report of 11 April 1962. Council took note of Panel report. Following the Panel ruling, the proposed tariff increase was abandoned in October 1962.</td>
<td>L/1749 C/M/10 SR.19/12 L/1749</td>
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<td>27.</td>
<td>Imports of potatoes (Value for duties)</td>
<td>November 1962</td>
<td>USA/Canada</td>
<td>Panel</td>
<td>Contracting Parties recommended that Canada withdraw the additional charge or effect satisfactory adjustment of the impaired benefit. Measure abolished 2 January 1963.</td>
<td>SR.20/8 11S/55,88 L/1968</td>
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<td>28.</td>
<td>Import restrictions</td>
<td>November 1962</td>
<td>USA/France</td>
<td>Panel</td>
<td>Contracting Parties recommended that France withdraw the restriction. Rights to XXIII benefits for USA were recognized. USA was however asked to refrain from suspending concessions for a reasonable length of time. The US returned to the case in September 1972 and subsequently a settlement was reached.</td>
<td>11S/55,94 L/3744 C/M/80,81,83</td>
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<td>12S/65</td>
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<td>30.</td>
<td>Administrative and statistical fees</td>
<td>December 1969</td>
<td>USA/Italy</td>
<td>Contracting Parties</td>
<td>During the Council discussion, the USA reserved its right to revert to the matter again.</td>
<td>L/3279</td>
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<td>C/M/65</td>
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<td>32.</td>
<td>Import restrictions on grains</td>
<td>September 1970</td>
<td>USA/Denmark</td>
<td>Council</td>
<td>Notification received by the Council. Parties reached an agreement in October 1970.</td>
<td>L/3436</td>
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<tr>
<td>33.</td>
<td>Margins of preference</td>
<td>September 1970</td>
<td>USA/Jamaica</td>
<td>Panel</td>
<td>Following Panel recommendation, the CONTRACTING PARTIES granted a waiver to Jamaica on 2 March 1971 changing the base date for calculation of margins of preference to 1 August 1962. At the same time Jamaica undertook to restore all margins of preference to the 1962 level. No report has been received from Jamaica on subsequent action.</td>
<td>18S/33</td>
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<td>18S/183</td>
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<td>L/3485</td>
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</table>

1This case was not raised as a dispute settlement issue but as a request for an advisory opinion.
<table>
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<tr>
<td>34.</td>
<td>Compensatory taxes on imports</td>
<td>June 1972</td>
<td>USA/ EEC</td>
<td>Council</td>
<td>Compensatory taxes on large number of items abolished. US agreed to defer further action.</td>
<td>L/3715 and Add.1 C/M/80</td>
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<td>38.</td>
<td>Income tax practices</td>
<td>May 1973</td>
<td>USA/France</td>
<td>Panel</td>
<td>Reports presented to the Council on 12 November 1976. Council adopted the reports on 7-8 December 1981 and agreed to an &quot;understanding&quot; (C/M/154).</td>
<td>L/3860</td>
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<td>40.</td>
<td>Income tax practices</td>
<td>May 1973</td>
<td>USA/Netherlands</td>
<td>Panel</td>
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<td>41.</td>
<td>Article XXIV:6 negotiations with the EEC</td>
<td>November 1974</td>
<td>Canada/EEC</td>
<td>Panel</td>
<td>Panel never met due to agreement reached between the parties in March 1975.</td>
<td>L/4107, C/M/101, 102, 105, C/W/250, 251</td>
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<td>C/M/122,123,125,25S/107</td>
</tr>
<tr>
<td>47.</td>
<td>Export refunds on malted barley</td>
<td>November 1977</td>
<td>Chile/EEC</td>
<td>Council and good offices of the Director-General</td>
<td></td>
<td>C/M/116,123,125</td>
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<td>27S/119</td>
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<td>C/M/125-128,134,135,139,141,143,144</td>
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<td>C/M/127,128,132-136,139,144,268/320</td>
</tr>
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<td>No.</td>
<td>Description of Case</td>
<td>Date of complaint</td>
<td>Complaint by/versus</td>
<td>Referred to</td>
<td>Action taken</td>
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<tr>
<td>53</td>
<td>Restrictions on imports of leather</td>
<td>October 1979</td>
<td>Canada/Japan</td>
<td>Panel</td>
<td>Panel report adopted on 10 November 1980 notes that Canada and Japan agreed on a solution to the matter.</td>
<td>L/4856, 27S/118</td>
</tr>
<tr>
<td>No.</td>
<td>Description of Case</td>
<td>Date of complaint</td>
<td>Complaint by/versus</td>
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<td>Action taken</td>
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<tr>
<td>59.</td>
<td>Imports of poultry from the United States</td>
<td>September 1980</td>
<td>US/EEC</td>
<td>Panel</td>
<td>Panel report indicates that complaint was withdrawn in May 1981 (L/5149).</td>
<td>L/5033, L/5040, L/5149, 28S/90, C/M/143,145, 148</td>
</tr>
<tr>
<td>60.</td>
<td>Imposition of countervailing duties without injury criterion</td>
<td>10 November 1980</td>
<td>India/US</td>
<td>Panel</td>
<td>Panel report indicates that complaint was withdrawn in September 1981 (L/5062/Add.1).</td>
<td>L/5028 L/5062 28S/113 C/M/143,144, 148,149,152</td>
</tr>
<tr>
<td>62.</td>
<td>Production subsidies on canned fruit</td>
<td>11 June 1981</td>
<td>Australia/EEC</td>
<td></td>
<td></td>
<td>C/M/148,149</td>
</tr>
<tr>
<td>63.</td>
<td>Imports of automotive spring assemblies</td>
<td>September 1981</td>
<td>Canada/US</td>
<td>Panel</td>
<td>Panel report found no violation of GATT provisions.</td>
<td>L/5195+Add.1 L/5333 C/M/151,152, 154,155, 159-162</td>
</tr>
<tr>
<td>No.</td>
<td>Description of Case</td>
<td>Date of complaint</td>
<td>Complaint by/versus</td>
<td>Referred to</td>
<td>Action taken</td>
<td>Reference</td>
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<tr>
<td>64.</td>
<td>Quantitative restrictions against imports from Hong Kong</td>
<td>December 1981</td>
<td>United Kingdom</td>
<td>Panel</td>
<td></td>
<td>L/5362</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(recourse to Art. XXIII:1)</td>
<td>on behalf of Hong Kong/EEC</td>
<td></td>
<td></td>
<td>C/M/154,161</td>
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<td></td>
<td>September 1982</td>
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<tr>
<td></td>
<td></td>
<td>(recourse to Art. XXIII:2)</td>
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<tr>
<td>65.</td>
<td>Subsidies on canned peaches, canned pears, and raisins</td>
<td>March 1982</td>
<td>US/EEC</td>
<td>Panel</td>
<td></td>
<td>L/5306</td>
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<td>C/M/156,159</td>
</tr>
<tr>
<td>66.</td>
<td>Canada Foreign Investment Act (FIRA)</td>
<td>March 1982</td>
<td>US/Canada</td>
<td>Panel</td>
<td></td>
<td>L/5308</td>
</tr>
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<td>C/M/156,160,162</td>
</tr>
<tr>
<td>67.</td>
<td>EEC - sugar régime</td>
<td>April 1982</td>
<td>Argentina, Australia, Brazil, Colombia, Cuba, Dominican Republic, India, Nicaragua, Peru Philippines/EEC States</td>
<td>Consultations pursuant to Art. XXIII:1</td>
<td>Council took note of the statement that complainants reserve their rights under GATT.</td>
<td>L/5309+Add. C/M/161</td>
</tr>
<tr>
<td>68.</td>
<td>Imports of citrus fruit and products</td>
<td>June 1982</td>
<td>US/EEC</td>
<td>Panel</td>
<td></td>
<td>L/5337</td>
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<td>L/5339</td>
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<td>C/M/159-162</td>
</tr>
<tr>
<td>No.</td>
<td>Description of Case</td>
<td>Date of complaint</td>
<td>Complaint by/versus</td>
<td>Referred to</td>
<td>Action taken</td>
<td>Reference</td>
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<td>69.</td>
<td>Internal regulations having an effect on imports of certain parts of footwear</td>
<td>September 1982</td>
<td>EEC/Finland</td>
<td>Panel</td>
<td></td>
<td>L/5369</td>
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<td>L/5394</td>
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<td>C/M/161,162</td>
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<td>L/5467</td>
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<tr>
<td>71.</td>
<td>Imports of table grapes</td>
<td>October 1982</td>
<td>EEC/Switzerland</td>
<td></td>
<td></td>
<td>L/5371</td>
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<tr>
<td>72.</td>
<td>Import restrictive measures on video tape recorders</td>
<td>December 1982</td>
<td>Japan/EEC</td>
<td></td>
<td></td>
<td>L/5427</td>
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<td>C/M/162</td>
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<tr>
<td>73.</td>
<td>Measures on imports of leather</td>
<td>January 1983</td>
<td>US/Japan</td>
<td>Panel</td>
<td></td>
<td>L/5440,5462</td>
</tr>
<tr>
<td>74.</td>
<td>Nullification or impairment of benefits and impediment to the attainment of GATT objectives</td>
<td>April 1983</td>
<td>EEC/Japan</td>
<td></td>
<td></td>
<td>L/5479</td>
</tr>
</tbody>
</table>
Tabular list of Article XXIII complaints in country-wise order

Australia

- Subsidization on ammonium sulphate
  
  Complaint by Chile in 1949  
  (see list A, No.4)  
  Working Party report adopted on 3 April 1950  
  GATT Articles examined: I, III, XI, XVI, XXIII  
  Agreement reached between Australia and Chile

Belgium

- Family allowances
  
  Complaint by Norway and Denmark in 1951  
  (see list A, No.6)  
  Working Party report adopted on 7 November 1952  
  GATT Articles examined: I, II, III, XVII

- Income tax practices
  
  Complaint by USA in 1973  
  (see list A, No. 39)  
  Panel report adopted on 7-8 December 1981

Brazil

- Internal taxes
  
  Complaint by France in 1945  
  (see list A, No.2)  
  First Working Party report adopted on 30 June 1949  
  Second Working Party report adopted on 13 December 1950

  GATT Article examined: III
  Resolution of 24 October 1953 and  
  Resolution of 30 November 1955 urging Brazil to bring laws into conformity with the General Agreement

  Tax discrimination abolished in August 1958
Canada

- Imports of potatoes

Complaint by USA in 1962 (see list A, No. 27) SR.20/8
Panel report adopted on 16 November 1962 11S/88
GATT Articles examined: II, VI, VII

Recommendation of 16 November 1962 that Canada withdraw the additional charge 11S/55
Value for duty cancelled in January 1963 and again established in 1966 L/1968 L/2682

- Import quotas on eggs

Complaint by USA in 1975 (see list A, No. 42) L/4222
GATT Article examined: XI
In March 1976, Canada notified certain increases in the quotas in accordance with suggestions made by the Working Party L/4319

- Withdrawal of tariff concessions under Article XXVIII:3

Complaint by EEC in 1976 (See list A, No. 45) C/M/117
Panel report adopted on 17 May 1978 25S/42
GATT Article examined: XXVIII

- Foreign Investment Review Act

Complaint by USA in 1982 (See list A, No. 66) L/5308

Cuba

- Import restrictions

Complaint by USA in 1948 (See List A, No.1) CP.2/SR.22
Working Party report adopted on 14 September and noted bilateral settlement Import regulations were terminated in 1948 CP.2/43 CP.2/SR.25

Denmark

- Import restrictions on grains

Complaint by US in 1970 (See list A, No. 32) L/3436
Complaint was withdrawn subsequent to settlement reached in consultations C/M/64
European Economic Community

- Negotiations on poultry

Common request from US and EEC to establish
a Panel to render an advisory opinion
(See list A, No. 29)
Panel report of 21 November 1963 L/2088
The Parties complied with the Panel's conclusions 12S/65

- Compensatory taxes on imports

Complaint by US in 1972 L/3715 + Add.1
(See list A, No.34)
Compensatory taxes on large number of items abolished C/M/79
USA agreed to defer further action C/M/80

- Article XXIV:6 negotiations with the EEC

Complaint by Canada in 1974 L/4107
(See list A, No. 41)
Reservation by EEC against procedure C/M/101
Panel established C/M/102
Agreement reached between the parties in 1975 C/M/105

- Import deposits for animal feed proteins

Complaint by USA in 1976 C/M/113
(See list A, No. 44)
Panel report adopted on 14 March 1978 25S/49
GATT Articles examined: I, II, III

- Minimum import prices, licenses and surety deposits for certain processed fruits and vegetables

Complaint by US in 1976 C/M/113
(See list A, No. 43)
Panel report adopted on 18 October 1978 25S/68
GATT Articles examined: I, II, VIII, XI, XXIII

- Export refunds on malted barley

Complaint by Chile in 1977 C/M/116
(See list A, No. 47)
Conciliation and good offices of Director-General C/M/125
- **Refunds on exports of sugar**

  Complaint by Australia in 1978  
  (See list A, No. 50)  
  Panel report adopted on 6 November 1979  
  GATT Article examined: XVI  
  Working Party report on Article XVI:1 discussions adopted on 10 March 1981  
  Working Party report adopted on 31 March 1982

- **Refunds on exports of sugar**

  Complaint by Brazil in 1978  
  (See list A, No. 41)  
  Panel report adopted on 10 November 1980  
  GATT Articles examined: XVI, XXIII, XXXVI, XXXVIII  
  Working Party report on Article XVI:1 discussions adopted on 10 March 1981  
  Working Party report adopted on 31 March 1982

- **Import restrictions on apples**

  Complaint by Chile in 1979  
  (See list A, No. 52)  
  Panel report adopted on 10 November 1980  
  GATT Articles examined: I, II, XI, XIII, XXIII, Part IV

- **Imports of beef**

  Complaint by Canada in 1980  
  (See list A, Note 58)  
  Panel report adopted on 10 March 1981  
  GATT Articles examined: I, II

- **Imports of poultry**

  Complaint by USA in 1980  
  (See list A, No. 59)  
  Panel report adopted on 11 June 1981  
  Complaint withdrawn

- **Quantitative restrictions against imports from Hong Kong**

  Complaint by United Kingdom on behalf of Hong Kong in 1981/82  
  (See list A, No. 64)  
  Panel report (pending)

- **Production subsidies on canned fruit**

  Complaint by Australia in 1981  
  (See list A, No. 62)
- Subsidies on canned peaches, canned pears, and raisins
  Complaint by USA in 1982
  (See list A, No. 65)
  Panel report (pending)

- EEC - Sugar régime
  Complaint by Argentina, Australia, Brazil, Colombia, Cuba, the Dominican Republic, India, Nicaragua, Peru and the Philippines in 1982
  (See list A, No. 67)
  Council took note of the statement that complainants reserve their rights under GATT

- Imports of citrus fruits and products
  Complaint by USA in 1982
  (See list A, No. 68)

- Import restrictive measures on video tape recorders
  Complaint by Japan in 1982
  (See list A, No. 72)

Finland

- Internal regulations having an effect on imports of certain parts of footwear
  Complaint by the EEC in 1982
  (See list A, No. 69)

France

- Statistical tax on imports and exports
  Complaint by US in 1952
  (See list A, No. 11)
  Tax abolished as of 1 January 1955
  
- Special temporary compensation tax on imports
  Complaint by Italy in 1954
  See list A, No. 13)
  Interim report of the Working Party of 8 August 1957
  The tax was partially removed as a first step, abolished in August 1957, and replaced by a uniform levy. The CONTRACTING PARTIES considered the matter as settled
- Stamp tax, increase to 2 per cent
  Complaint by US in 1954
  See list A, No. 16)  
  Complaint withdrawn  
  L/245  
  SR.9/28

- Stamp tax, further increase to 3 per cent
  Complaint by US in 1955
  (See list A, No. 17)
  French undertaking to cancel increase as soon as possible
  Stamp tax reduced to 2 per cent as from 1 January 1961
  L/410  
  L/569, 720  
  L/1412

- Discrimination against imported agricultural machinery
  Complaint by UK in 1957
  (See list A, No. 22)
  Discrimination removed with retroactive effect
  SR.12/5  
  SR.13/7

- Assistance to exports of wheat flour
  Complaint by Australia in 1958
  (See list A, No. 23)
  Panel report adopted on 21 November 1958
  GATT Articles examined: XVI:3
  Recommendation of 21 November 1958
  Agreement reached between the parties in April 1960
  IC/SR.38/12  
  7S/46  
  7S/22  
  L/1323, 1548

- Import restrictions
  Complaint by USA in 1962
  (See list A, No. 28)
  Panel report adopted on 14 November 1962
  GATT Articles examined: XI, XII
  Recommendation of 14 November 1962
  Certain restrictions were removed by France.
  Matter was eventually not pursued after a bilateral adjustment of the matter had been reached
  SR.20/8  
  11S/94  
  11S/55  
  C/M/80  
  C/M/81, 83

- Income tax practices
  Complaint by US in 1973
  (See list A, No. 38)
  Panel report adopted on 7-8 December 1981
  GATT Articles examined: XVI, XXIII
  Reservation by France
  Understanding and statements on the adoption of the Panel report
  L/3860  
  23S/114; 28S/114  
  C/97  
  C/M/154  
  28S/114
Germany

- Treatment of sardines imports
  Complaint by Norway in 1952 (See list A, No. 8) L/16
  Panel report adopted on 31 October 1952 1S/53
  GATT Articles examined: I, XIII, XXIII
  Recommendation of 31 October 1952 1S/30
  Agreement reached between governments in 1953 SR.8/18

- Import duties on starch and potato flour
  Complaint by Benelux countries in 1954 (See list A, No.14) L/260
  Panel report noted on 16 February 1955 3S/77
  GATT Article examined: II
  Settlement agreed between the parties SR.9/34

Greece

- Increase of import duties
  Complaint by UK in 1952 (See list A, No. 9) L/15
  Panel report adopted on 3 November 1952 1S/51
  GATT Article examined: II
  Recommendation of 3 November 1952 1S/23
  Previously existing coefficient for currency conversion was restored SR.8/7

- Special import taxes
  Complaint by France in 1952 (See list A, No. 10) SR.7/8
  Panel report adopted on 3 November 1952 1S/48
  GATT Articles examined: II, III
  Measure terminated in April 1953 SR.8/7

- Luxury tax
  Complaint by Italy in 1954 (See list A, No. 15) L/234
  Matter settled in consultations SR.9/7, 30

- Increase in bound duties
  Complaint by Germany in 1956 (See list A, No.19) L/575
  Report of Group of Experts L/580
  Settlement reached and complaint withdrawn in November 1957 L/765, SR.12/21
- Preferential tariff quotas to the USSR

Complaint by US in 1970  
(See list A, No. 31)  
Working Party report adopted on 2 December 1970  
(The Working Party did not recommend that the requested waiver be granted)  
Greece will seek appropriate solution

Italy

- Discrimination against imported agricultural machinery

Complaint by UK in 1957  
(See list A, No. 21)  
Panel report adopted on 23 October 1958  
GATT Articles examined: III, XXIII  
Recommendation of 23 October 1958  
Agreement reached  
Matter raised again by the UK in 1960  
Retained on agenda

- Assistance to exports of flour

Complaint by Australia in 1958  
(See list A, No. 24)  
Matter referred to panel if no agreement is reached in bilateral discussions

- Administrative and statistical fees

Complaint by the US in 1969  
(See list A, No. 30)  
During the Council discussion, the US reserved the right to revert to the matter

Jamaica

- Increase in margins of preference

Complaint by US in 1970  
(See list A, No. 33)  
Panel report adopted on 2 February 1971  
GATT Article examined: XXVI  
(Panell recommended the granting of a waiver to change with respect to Jamaica the base date referred to in para.4 of Article I from 10 April 1947 to 1 August 1962)  
Decision of 2 March 1971 changing the base date for calculation of margins of preference to 1 August 1962. Jamaica undertook to reduce increased margins of preference to the 1962 level
Japan

- Import restrictions on thrown silk yarn
  Complaint by US in 1977
  (See list A, No. 46)
  Panel report adopted on 17 May 1978
  indicating that parties have arrived
  at a bilateral solution
  Panel report adopted
  25S/107

- Restraints on imports of leather
  Complaint by US in 1978
  (See list A, No. 49)
  Panel report adopted on 6 November 1979
  notes that US was withdrawing the complaint
  subsequent to bilateral settlement reached
  Panel report adopted
  26S/320

- Restrictions on imports of leather
  Complaint by Canada in 1979
  (See list A, No. 53)
  Panel report adopted on 10 November 1980 notes
  that parties agreed on a solution to the matter
  Panel report adopted
  27S/118

- Restraints on imports of manufactured tobacco
  Complaint by US in 1980
  (See list A, No. 55)
  Panel report adopted 11 June 1981 notes
  bilateral settlement and withdrawal of
  complaint
  Panel report adopted
  28S/100

- Measures on imports of leather
  Complaint by US in 1983
  (See list A, No. 73)
  Panel report adopted
  L/5440, 5462

- Nullification or impairment of benefits
  Complaint by EEC in 1983
  (See list A, No. 74)
  Panel report adopted
  L/5479

Netherlands

- Income tax practices
  Complaint by US in 1973
  (See list A, No. 40)
  Panel report of 11 April 1962
  Council took note of Panel report
  Panel report adopted on 7-8 December 1981
  GATT Articles examined: XVI, XXIII
  Reservation by the Netherlands
  Understanding and Statements on the adoption
  of the Panel report
  Panel report adopted
  C/M/154
  28S/114
Norway

- **Restrictions on imports of certain textile products**

  Complaint by UK on behalf of Hong Kong in 1978
  (See list A, No. 48)
  Panel report adopted "in principle" on 18 June 1980
  GATT Articles examined: XI, XIII, XIX

Spain

- **Restrictions on domestic sale of soyabean oil**

  Complaint by US in 1979
  (See list A, No. 54)
  Panel report of 17 June 1981
  GATT Articles examined: III, XVII, XXIII
  Council took note of the report on 3 November 1981

- **Tariff treatment of unroasted coffee**

  Complaint by Brazil in 1980
  (See list A, No. 57)
  Panel report adopted on 11 June 1981
  GATT Articles examined: I, II

Sweden

- **Anti-dumping duties**

  Complaint by Italy in 1954
  (See list A, No. 12)
  Panel report adopted on 26 February 1955
  GATT Article examined: VI
  Anti-dumping regulations in question were abrogated on 10 July 1955
  L/215 3S/81 7S/69 L/386

Switzerland

- **Imports of table grapes**

  Complaint by the EEC in 1982
  (See list A, No. 71)
  L/5371
United Kingdom

- Increase in margins of preferences on bananas

  Complaint by Brazil in 1961  
  (See list A, No. 26)  
  Panel report of 11 April 1962  
  Council took note of Panel report  
  In accordance with the Panel ruling that the purpose of the proposed increase in margin of preferences did not qualify under the conditions of the authorizing waiver, the proposed tariff increase was abandoned  

  Exports of subsidized eggs

  Complaint by Denmark in 1957  
  (See list A, No. 20)  
  Discussion by Intersessional Committee and establishment of Panel which never met due to settlement reached in September 1957  

- Import restrictions of cotton textiles

  Complaint by Israel in 1972  
  (See list A, No. 35)  
  Panel report adopted on 5 February 1973 notes that bilateral settlement had been reached  

- Dollar area import quotas

  Complaint by US in 1972  
  (See list A, No. 36)  
  Interim panel report adopted on 30 July 1973  
  Panel report, adopted on 30 July 1973, notes withdrawal of complaint following bilateral settlement reached  

United States

- Export restrictions

  Complaint by Czechoslovakia in 1949  
  (See list A, No. 3)  
  The CONTRACTING PARTIES rejected the complaint  
  Suspension of obligations between Czechoslovakia and the US
- "Serious injury" in case of Article XIX action

Complaint by Czechoslovakia
(See list A, No. 5)
The report found the withdrawal by the US of a
tariff concession not in violation of Article XIX.

- Import restrictions on dairy products

Complaints by the Netherlands and Denmark in 1951
(See list A, No. 7)
Resolution of 26 October 1951
Resolution of 8 November 1952
Netherlands suspension of obligations to US
Resolution of 13 October 1953
Resolution of 5 November 1954
Determination (suspension of certain obligations)
of 1 December 1955
Determination (suspension of certain obligations)
of 16 November 1956
Determination (suspension of certain obligations)
of 28 November 1957
Determination (suspension of certain obligations)
of 20 November 1958
Decision of 5 March 1955, granting a waiver to the
US in connexion with import restrictions

- Hawaiian regulations affecting imported eggs

Complaint by Australia in 1955
(See list A, No. 18)
Regulation invalidated

- Tax legislation (DISC)

Complaint by EEC in 1973
(See list A, No. 37)
Panel report presented to Council on
12 November 1976 and adopted on
7-8 December 1981
GATT Articles examined: XVI, XXIII
Understanding and statements on the adoption
of the Panel report

- Prohibition of imports of tuna and tuna
products

Complaint by Canada in 1980
(See list A, No. 56)
Panel report adopted on 22 February 1982
GATT Articles examined: I, II, XI, XIII,
XII(g), XXIII
- **Imposition of countervailing duties without injury criterion**

  Complaint by India in 1980
  (See list A, No. 60)
  Panel report adopted on 3 November 1980 notes bilateral settlement

  - **Import duty on vitamin B-12, feed-grade quality**

  Complaint by EEC in 1981
  (See list A, No. 61)
  Panel report adopted on 1 October 1982
  GATT Articles examined: II, XXVIII

  - **Imports of automotive spring assemblies**

  Complaint by Canada in 1981
  (See list A, No. 63)
  Panel report (pending)

  - **"Manufacturing clause" in US copyright legislation**

  Complaint by EEC in 1982
  (See list A, No. 70)

  - **Uruguayan recourse in 1961 affecting fifteen contracting parties maintaining different types of measures**

  (See list A, No. 25)
  Report of Panel adopted on 16 November 1962
  GATT Articles examined: I, II, III, VII, XII, XVII, XX, XXII, XXIII
  Recommendation of 16 November 1962, addressed to seven contracting parties
  Reports of Panel adopted on 3 March 1965