2

Procedures relating to disputes under the GATT 1947

2.a Panel on Complaints (terms of reference and procedures)

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
W.7/20
14 October 1952
Special Distribution

PANEL ON COMPLAINTS

Chairman: Mr. C.M.Isbister (Canada)

Members: The representatives of Australia, Canada, Ceylon, Cuba, Finland, Netherlands.

Terms of Reference:

To consider, in consultation with representatives of the countries directly concerned and of other interested countries, complaints referred to the CONTRACTING PARTIES under Article XXIII, and such other complaints as the CONTRACTING PARTIES may expressly refer to the Panel, and to submit findings and recommendations to the CONTRACTING PARTIES.

Procedure:

This Panel should invite the parties directly concerned to present their respective cases and afford them the opportunity to discuss with the Panel the various points arising therefrom. The Panel should also hear the representatives of other contracting parties which have an interest in any matter under discussion.

The Panel should then consider the information and arguments laid before them and embody their findings and recommendations in a draft report. The Panel should communicate the draft report to representatives of the contracting parties directly concerned, and of other interested contracting parties, and should afford an opportunity for discussion of the draft report.

The Panel should then establish its final report for submission to the CONTRACTING PARTIES.

Source: Document W.7/20 of 14 October 1952.

2.a Panel on Complaints (terms of reference and procedures) *(continued)*

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
W.9/5
5 November 1954
Special Distribution

CONTRACTING PARTIES
Ninth Session

PANEL ON COMPLAINTS

Chairman: Mr. L.K. Jha

Members: Mr. J. Alvaro Muñoz — Mr. S. Salvador Ortiz
Mr. C.E.P. Jayasuriya — Mr. Gunnar Seidenfaden
Mr. J.P.D. Johnsen — Mr. G.J.J.F. Steyn

The terms of reference and procedures for panels on complaints were established at the Seventh Session (W.7/20) as follows:

Terms of Reference:

To consider, in consultation with representatives of the countries directly concerned and of other interested countries, complaints referred to the CONTRACTING PARTIES under Article XXIII, and such other complaints as the CONTRACTING PARTIES may expressly refer to the Panel, and to submit findings and recommendations to the CONTRACTING PARTIES.

Procedure:

This Panel should invite the parties directly concerned to present their respective cases and afford them the opportunity to discuss with the Panel the various points arising therefrom. The Panel should also hear the representatives of other contracting parties which have an interest in any matter under discussion.

The Panel should then consider the information and arguments laid before them and embody their findings and recommendations in a draft report. The Panel should communicate the draft report to representatives of the contracting parties directly concerned, and of other interested contracting parties, and should afford an opportunity for discussion of the draft report.

The Panel should then establish its final report for submission to the CONTRACTING PARTIES.

Source: Document W.9/5 of 5 November 1954.

2.a Panel on Complaints (terms of reference and procedures) *(continued)*

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
W.9/5/Rev.1
20 January 1955
Special Distribution

CONTRACTING PARTIES
Ninth Session

PANEL ON COMPLAINTS

Chairman: Mr. L.K. Jha

Membership: Mr. J. Alvaro Munoz
Mr. R.C.S. Koelmeyer
Dr. H.E. Priester
Mr. G.A. Rattigan
Mr. Gunnar Seidenfaden
Mr. G.J.J.F. Steyn

The terms of reference and procedures for panels on complaints were established at the Seventh Session (W.7/20) as follows:

Terms of Reference

To consider, in consultation with representatives of the countries directly concerned and of other interested countries, complaints referred to the CONTRACTING PARTIES under Article XXIII, and such other complaints as the CONTRACTING PARTIES may expressly refer to the Panel, and to submit findings and recommendations to the CONTRACTING PARTIES.

Procedure

This Panel should invite the parties directly concerned to present their respective cases and afford them the opportunity to discuss with the Panel the various points arising therefrom. The Panel should also hear the representatives of other contracting parties which have an interest in any matter under discussion.

The Panel should then consider the information and arguments laid before them and embody their findings and recommendations in a draft report. The Panel should communicate the draft report to representatives of the contracting parties directly concerned, and of other interested contracting parties, and should afford an opportunity for discussion of the draft report.

The Panel should then establish its final report for submission to the CONTRACTING PARTIES.

Source: Document W.9/5/Rev.1 of 20 January 1955.

2.b Decision of 24 October 1953. Waiver granted to the United Kingdom

WAIVER TO THE UNITED KINGDOM IN CONNECTION WITH ITEMS TRADITIONALLY ADMITTED FREE OF DUTY FROM COUNTRIES OF THE COMMONWEALTH

Decision of 24 October 1953

Having received from the Government of the United Kingdom of Great Britain and Northern Ireland a request for facilities, consistent with the objectives of the General Agreement, to relieve them of the requirements prescribed in paragraph 4 (*b*) of Article I of the Agreement as regards maximum margins of preference when they have occasion hereafter to impose or increase a most-favoured-nation rate of protective duty in respect of any class or description of goods, which has traditionally been admissible free of protective duty when imported into the United Kingdom from the territories listed in Annex A to the General Agreement,

Apprehending that the establishment or increase of a margin of preference incidental to the imposition or increase of a most-favoured-nation rate of protective duty in respect of a class or description of goods might have the effect of increasing imports into the United Kingdom of such goods from the territories listed in Annex A at the expense of imports of such goods from other sources so as to constitute a substantial diversion of trade; and that such diversion would be contrary to the objectives of Article I and would therefore constitute a nullification or impairment of benefits due to accrue to other contracting parties under that Article,

Considering, however, the explanations given by the Government of the United Kingdom regarding the circumstances which prevent them from resolving their difficulties by a general modification of existing tariff legislation to enable them to impose protective duties on products imported into the United Kingdom from the territories listed in Annex A,

Taking note, moreover, of the assurance of the Government of the United Kingdom that it is not their intention to use the aforesaid facilities in order to increase the advantage enjoyed in the United Kingdom market by products imported from the territories listed in Annex A over products imported from other sources, and of the declaration of the Government of the United Kingdom that they remain desirous of contributing to the objectives of the General Agreement through arrangements directed to the reduction of trade

2.b Decision of 24 October 1953. Waiver granted to the United Kingdom *(continued)*

barriers including tariffs and that the grant of the facilities sought by them will not affect their continued readiness to participate in action by the CONTRACTING PARTIES to secure further reduction of tariffs,

Noting, furthermore, the assurances given by the Government of the United Kingdom with regard to the procedures for consultation to be followed before using the aforesaid facilities, as approved concurrently with, and as an integral part of, the present decision, and their agreement to make annual reports to the CONTRACTING PARTIES of all action taken by them in the use of these facilities,

The CONTRACTING PARTIES, pursuant to paragraph 5 (*a*) of Article XXV of the General Agreement, and in consideration of the assurances recorded above,

Decide that the provisions of paragraph 4 (*b*) of Article I shall not be so applied that, when the Government of the United Kingdom impose or increase a most-favoured-nation rate of protective duty in respect of a given class or description of goods for which they have not as of this date negotiated tariff concessions, they shall be required to impose a duty on goods of that class or description when imported from any of the territories listed in Annex A to the General Agreement; provided that the incidental establishment or increase of a margin of preference is not likely to lead to a substantial increase of imports of goods of that class or description from the aforesaid territories at the expense of imports from other sources; and provided further that protective duty has at no time since 1 January 1939 been chargeable in respect of that class or description of goods when imported into the United Kingdom from the aforesaid territories; and

Declare that, in deciding as aforesaid, it is not their intention to impede the attainment of the objectives of Article I of the General Agreement and that in no circumstances shall the present Decision be construed as impairing the principles of that Article.

PROCEDURES

(a) The United Kingdom, before taking action under the waiver, will simultaneously, in strict confidence, notify (i) contracting parties which appear to the United Kingdom likely to have a substantial interest in the trade in the item in question, and (ii) the GATT secretariat of their desire to act under the waiver in respect of that item. The United Kingdom will give figures for past trade in the product and, in the case of seasonal duties, will state the period in which it has been decided that the increased duty should operate. The GATT secretariat will immediately pass this information to all contracting parties, so that any contracting party not directly approached by the United Kingdom which might claim a substantial interest in the trade in the item may know what is proposed.

(*b*) The United Kingdom will enter into consultations with any contracting party which requests consultation within 30 days of notification under (*a*) on the grounds both (i) that it has a substantial interest in the trade in an item and (ii) that

2.b Decision of 24 October 1953. Waiver granted to the United Kingdom *(continued)*

the increase in the margin of preference incidental to an increase in the most-favoured-nation rate of duty would involve likelihood of substantial diversion of trade in that item from the aforesaid contracting party to suppliers within the preferential area as defined in Annex A. In the absence of any such request for consultation, the waiver shall apply after the expiry of thirty days from the date of notification under (*a*).

(*c*) Consultations under (*b*) shall, if the United Kingdom or one or more of the countries with which it is consulting so requests, take place at meetings organized and serviced by the GATT secretariat.

(*d*) In the event that a contracting party requests consultations on grounds which do not appear to the United Kingdom to satisfy the terms of (*b*) above, it shall be open to the United Kingdom to seek a speedy determination on the matter from the CONTRACTING PARTIES, through appropriate intersessional machinery if the case arises while the CONTRACTING PARTIES are not in session.

(*e*) If the United Kingdom enters into consultation under paragraph (*b*) above with any contracting party, or if the CONTRACTING PARTIES determine under paragraph (*d*) above that the grounds on which consultation is requested by any contracting party satisfy the terms of paragraph (*b*) above, the United Kingdom will inform, in strict confidence, such contracting party of the proposed rate of duty.

(*f*) If in consultation in accordance with paragraph (*b*) above it is agreed that there is no likelihood of substantial diversion of trade in the sense defined in that paragraph, the waiver shall apply.

(*g*) Failing such agreement, it shall be open to the United Kingdom to seek arbitration by the CONTRACTING PARTIES (through appropriate intersessional machinery if the matter should arise while the CONTRACTING PARTIES are not in session) as to the likelihood of substantial diversion.

(*h*) The CONTRACTING PARTIES or the appropriate intersessional body may reach one of the following three decisions:

(i) that there is no likelihood of substantial diversion,
(ii) that there is likelihood of substantial diversion, or
(iii) that the evidence is not sufficient for them to determine whether or not there is likelihood of substantial diversion.

In case (i) the waiver shall apply. In case (ii) the waiver shall not apply. In case (iii) the waiver shall apply conditionally; that is to say, the waiver shall apply, but if the CONTRACTING PARTIES should determine, upon the representation of a contracting party affected, after a reasonable period of time (and not less than one year), that the increase in the margin of preference had in fact led to a substantial diversion of trade, the waiver shall cease to apply.

(*i*) It is recognized to be essential that there should be no disclosure of a proposed modification of duty before such modification is publicly announced by the United Kingdom. Accordingly, the CONTRACTING PARTIES agree to make provision for the observance of the utmost secrecy at every stage of the procedure set forth above.

(...)

Source: BISD 2S/20.

2.b Decision of 24 October 1953. Waiver granted to the United Kingdom *(continued)*

(...)

AMENDMENT OF THE WAIVER GRANTED TO THE UNITED KINGDOM IN CONNECTION WITH ITEMS TRADITIONALLY ADMITTED FREE OF DUTY FROM COUNTRIES OF THE COMMONWEALTH

Decision of 5 March 1955 [1]

Whereas the CONTRACTING PARTIES at their Eighth Session decided that, subject to certain conditions and procedures, the provisions of paragraph 4 (*b*) of Article I should not be so applied that, when the Government of the United Kingdom imposes or increases a most-favoured-nation rate of protective duty in respect of a given class or description of goods for which they had not as of 24 October 1953, being the date of the aforesaid Decision, negotiated tariff concessions, they should be required to impose a duty on such goods when imported from territories listed in Annex A to the General Agreement,

Having received from the Government of the United Kingdom of Great Britain and Northern Ireland a request that this Decision should be amended so as also to apply, subject to the same conditions and procedures, to most-favoured-nation rates of protective duty modified or withdrawn consistently with the provisions of the General Agreement,

Noting that this Decision, so amended, would not apply in respect of a modification or withdrawal of a most-favoured-nation rate of protective duty for which the Government of the United Kingdom had as of 24 October 1953 negotiated a tariff concession unless its application in that case was in conformity with the conditions and

[1] The title of the Decision of 24 October 1953, as appearing on page 20 of *BISD*, Second Supplement, should be amended by omitting the words " Not Bound in Schedule XIX and ".

2.b Decision of 24 October 1953. Waiver granted to the United Kingdom *(continued)*

procedures agreed at the Eighth Session for providing other contracting parties with full safeguards as regards any likelihood of substantial increase of imports into the United Kingdom from territories listed in Annex A at the expense of imports from other sources,

Decide that, as from this date, the Decision of 24 October 1953 shall extend to the imposition or increase of a most-favoured-nation rate of protective duty in connection with the modification or withdrawal, consistently with the provisions of the General Agreement, of a tariff concession which the Government of the United Kingdom had negotiated as of 24 October 1953, and that, accordingly, the Decision of 24 October 1953 shall apply subject to the addition of the following:

(*a*) In the first paragraph at the end, and in the seventh paragraph after the word "concessions", the words:

> "or for which, having negotiated concessions, they are nevertheless free, under the provisions of the Agreement, to increase the most-favoured-nation rate of duty".

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(*b*) In the first and seventh paragraphs, before "paragraph 4 (*b*)", the words:

> "paragraph 4 (*a*) or".

(...)

Source: Decision of 5 March 1955, BISD 3S/25.

2.c Considerations Concerning Extended Use of Panels. Note by the Executive Secretary

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
L/392
22 August 1955
Limited Distribution

CONSIDERATIONS CONCERNING EXTENDED USE OF PANELS

Note by the Executive Secretary

1. When the provisions relating to the balance-of-payment consultations were reviewed at the Ninth Session, it was emphasized by several delegates that, if consultations carried out by the contracting parties were to be effective, improved arrangements for the competent and speedy conduct of the consultations would be necessary. This question was also discussed in connexion with the continuing administration of the Agreement, and the Danish delegation submitted a suggestion for the appointment of panels of qualified representatives to assist in carrying out consultations under Articles XII to XIV and in the consideration of of complaints under Article XXIII, as well as other commercial policy matters which are the subject of regular reports for examination by the CONTRACTING PARTIES (see Third Supplement, pages 179 and 247). There was no general agreement on the suggestion put forward by the Danish delegation, and no other specific proposal was submitted, but it was agreed that the Executive Secretary should consider the problem and, if possible, put forward concrete proposals for consideration at the Tenth Session.

The normal working party procedure

2. With the exception of the panel that the CONTRACTING PARTIES have established for the consideration of complaints lodged under Article XXIII, the normal procedure for dealing with matters of the sort referred to by the Danish representative has been the same as that used for the consideration of all substantive problems, namely, initial consideration in plenary followed usually by consideration in a working party, and finally, adoption of the working party report by the CONTRACTING PARTIES. The working party has consisted of a number of delegations, varying from five to eighteen according to the importance of the question or the interests involved. A delegation which is a member of the working party is free to appoint any individual in its delegation and to change this representative as it thinks fit. All members of the working party occupy the same status, including the contracting party which is being consulted or whose report is under consideration.

3. The report of such a working party must either represent the views of all its members or record any minority views. Since the tendency has been to strive for unanimity, there has usually been some measure of negotiation and compromise between the consulting government and the rest of the working party in determining the form the report shall take.

2.c Considerations Concerning Extended Use of Panels. Note by the Executive Secretary *(continued)*

4. Although this traditional method of dealing with consultations, reports and even complaints has the advantage of permitting a frank exchange of views under conditions in which all delegations meet on an equal footing, experience has revealed that it also has disadvantages. In the case of complaints, for example, it often proved embarrassing for the representative of a country against which a complaint was lodged to associate himself with the working party report. On the other hand, it was often equally embarrassing for him to dissent from the report and to file a minority statement. Furthermore, the majority of the working party themselves were frequently inhibited in a frank expression of views in their report to the CONTRACTING PARTIES because of their desire to reach unanimous agreement in the working party. These difficulties became so apparent during the early sessions of the CONTRACTING PARTIES that by their Seventh Session they adopted a radically different procedure and established a Panel on Complaints.

The Panel on Complaints

5. The Panel on Complaints, as it has been developed in successive sessions, differs substantially from the ordinary working party both in its composition and in its manner of working. Instead of selecting delegations as members of the Panel, the Chairman nominates individuals. In making this selection he takes into account not only nationality but personal qualifications and special knowledge of the General Agreement and of the matters to be dealt with by the Panel. While the individual selected would in most cases be the person who would have been designated by the delegation under the traditional working party procedure, the selection of individuals has provided a greater assurance that the Panel will include individuals with the necessary knowledge of the subject concerned. Furthermore, it has assured continuity in the work of the Panel by preventing delegations from substituting one member for another. Perhaps most important of all, this method of constituting the Panel has emphasized the fact that the primary function of the Panel is to prepare an objective analysis for consideration by the contracting parties, in which the special interests of individual governments are subordinated to the basic objective of applying the Agreement impartially and for the benefit of the contracting parties in general.

6. Differences between the working methods of the Panel on Complaints and those of the normal working party have further emphasized the importance of objectivity. The contracting parties immediately concerned with a complaint are not represented on the Panel. They appear before the Panel in a capacity that is similar to that of the plaintiff and the defendant before a court of law. After having heard the parties and any other contracting party which might have an interest in the case, the members of the Panel meet in closed session and arrive at their own conclusions. The report is then drafted under their individual responsibility and does not prejudice the attitude of the parties to the dispute. Nor does it prejudice the later position that may be taken by governments during the subsequent consideration of the report by the CONTRACTING PARTIES. In practice the draft report is shown to the parties immediately concerned before it is circulated. The Panel meets again, with those parties and any other observers, hears their comments, and finally meets to approve the text. The report is then submitted to the CONTRACTING PARTIES and discussed in the same manner as the report of an ordinary working party.

2.c Considerations Concerning Extended Use of Panels. Note by the Executive Secretary *(continued)*

Use of panels in other cases

7. Although the disadvantages of the working party technique have not been as apparent in the other cases in which the CONTRACTING PARTIES have been called upon to deal with a problem in which one or more contracting parties are especially concerned, there have been instances which suggest the desirability of extending the panel technique to such cases. The discussion which took place during the Ninth Session in the working party which considered the Second Annual Report of the Member States of the European Coal and Steel Community raised a number of problems similar to those referred to in connexion with complaints. The working party which was called upon to consider that report included representatives of those governments which were themselves responsible for the report. Some members of the working party felt that the report could have been considered more objectively if the reporting members had appeared before the working party in a different capacity. It was also the feeling of some that the discussion would have been more fruitful if the representatives of other delegations taking part had had more specialized knowledge of the highly technical points which were under consideration. This experience suggests that at least in the case where a report involves a subject calling for special individual competence a panel procedure modelled after that followed in the case of complaints would be worthy of consideration.

8. At the Ninth Session the contracting parties expressed a general desire to make the procedure of consultations under the balance-of-payment provisions of the General Agreement more meaningful and effective. While this does not necessarily suggest the use of a panel procedure for those consultations, the CONTRACTING PARTIES will presumably want to consider whether such a procedure might not aid in achieving the desired result. It would appear that the basic condition that dictated the use of panels in the case of complaints is also present in the case of balance-of-payment consultations, namely, that the contracting party directly concerned must deal with the CONTRACTING PARTIES under circumstances in which its own interests may, for the time being, differ from the interests of the CONTRACTING PARTIES as a whole. There may also be occasions when it is desirable for the working party or panel to receive information in confidence from the contracting party concerned and for it to meet privately to consider what use it can properly make of such confidential information in its report. It is suggested that a guiding consideration for the CONTRACTING PARTIES in deciding whether and to what extent the panel technique might be extended to cases other than complaints, should be a determination of the sort of case in which it may be especially desirable to obtain an objective and technical consideration of the issues involved before the CONTRACTING PARTIES are called upon to reach their final judgment. Most consultations with individual governments and the consideration of special reports by individual governments under waivers, are cases in which the CONTRACTING PARTIES are entitled to a preliminary objective consideration of this kind and in which such an objective consideration is difficult to obtain through the normal working party technique.

2.c Considerations Concerning Extended Use of Panels. Note by the Executive Secretary *(continued)*

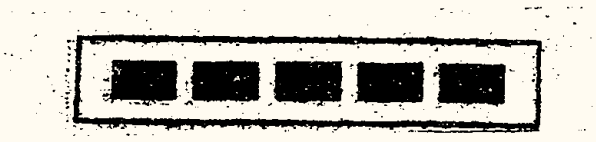
9. At the Ninth Session the Danish representative suggested that the experience of the OEEC in dealing with similar cases had proved the usefulness of a procedure like that of the Panel on Complaints. In all cases in which the OEEC is called upon to consider the action of individual member governments in connexion with the maintenance of quantitative restrictions, the detailed consultations and examination of the facts are conducted by bodies of limited composition whose members are selected as individuals for their personal qualifications. The reports of these panels or committees are then submitted to commissions of broader composition the members of which are governments and not individuals. The nature of the material dealt with in this way by the OEEC would appear to be comparable with much of that ordinarily dealt with by the CONTRACTING PARTIES through the usual working parties. If contracting parties which are members of the OEEC have found the OEEC procedures successful, it would suggest that the CONTRACTING PARTIES might well use the same technique in place of one that has not proved entirely satisfactory.

Recommendation

10. Although the rather limited experience available is not sufficient to permit the unqualified conclusion that the panel technique should be adopted in all cases mentioned above, it would appear that the CONTRACTING PARTIES would find it worth while to experiment on a broader basis with this technique. It is suggested therefore that the CONTRACTING PARTIES consider:

(i) the renewal for the Tenth Session of the panel procedure for dealing with complaints; and

(ii) the experimental use during the Tenth Session of a similar procedure wherever possible for dealing with other matters for which working parties have been used in the past.



Source: Document L/392 of 22 August 1955.

2.d Procedures under Article XXII on Questions Affecting the Interests of a Number of Contracting Parties. Procedures adopted on 10 November 1958

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
L/928
21 November 1958
Limited Distribution

CONSULTATIONS UNDER ARTICLE XXII

Procedures adopted on 10 November 1958

As a matter of convenience, and in order to facilitate the observance of the basic principles and objectives of the General Agreement, the CONTRACTING PARTIES have agreed upon the following procedures for consultations under Article XXII on questions affecting the interests of a number of contracting parties:

(a) any contracting party seeking such a consultation under Article XXII shall, at the same time, so inform the Executive Secretary for the information of all contracting parties;

(b) any other contracting party asserting a substantial trade interest in the matter shall, within forty-five days of the notification by the Executive Secretary of the request for consultation, advise the consulting countries and the Executive Secretary of its desire to be joined in the consultation;

(c) such contracting party shall be joined in the consultation provided that the contracting party or parties to which the request for consultation is addressed agree that the claim of substantial interest is well founded; in that event they shall so inform the contracting parties concerned and the Executive Secretary;

(d) if the claim to be joined in the consultation is not accepted, the applicant contracting party shall be free to refer its claim to the CONTRACTING PARTIES;

(e) at the close of the consultation, the consulting countries shall advise the Executive Secretary for the information of all contracting parties of the outcome;

(f) the Executive Secretary shall provide such assistance in these consultations as the parties may request.

Source: Document L/928 of 21 November 1958, BISD 7S/24.

2.e Procedures under Article XXIII. Decision of 5 April 1966

(...)

CONCILIATION

PROCEDURES UNDER ARTICLE XXIII

Decision of 5 April 1966 [1]

The CONTRACTING PARTIES,

Recognizing that the prompt settlement of situations in which a contracting party considers that any benefits accruing to it directly or indirectly from the General Agreement are being impaired by measures taken by another contracting party, is essential to the effective functioning of the General Agreement and the maintenance of a proper balance between the rights and obligations of all contracting parties;

Recognizing further that the existence of such a situation can cause severe damage to the trade and economic development of the less-developed contracting parties; and

Affirming their resolve to facilitate the solution of such situations while taking fully into account the need for safeguarding both the present and potential trade of less-developed contracting parties affected by such measures;

Decide that :

1. If consultations between a less-developed contracting party and a developed contracting party in regard to any matter falling under paragraph 1 of Article XXIII do not lead to a satisfactory settlement, the less-developed

[1] The Decision is referred to in paragraphs 41-47 of the Report of the Committee on Trade and Development. See pages 139 and 140.

2.e Procedures under Article XXIII. Decision of 5 April 1966 *(continued)*

contracting party complaining of the measure may refer the matter which is the subject of consultations to the Director-General so that, acting in an *ex officio* capacity, he may use his good offices with a view to facilitating a solution.

2. To this effect the contracting parties concerned shall, at the request of the Director-General, promptly furnish all relevant information.

3. On receipt of this information, the Director-General shall consult with the contracting parties concerned and with such other contracting parties or inter-governmental organizations as he considers appropriate with a view to promoting a mutually acceptable solution.

4. After a period of two months from the commencement of the consultations referred to in paragraph 3 above, if no mutually satisfactory solution has been reached, the Director-General shall, at the request of one of the contracting parties concerned, bring the matter to the attention of the CONTRACTING PARTIES or the Council, to whom he shall submit a report on the action taken by him, together with all background information.

5. Upon receipt of the report, the CONTRACTING PARTIES or the Council shall forthwith appoint a panel of experts to examine the matter with a view to recommending appropriate solutions. The members of the panel shall act a personal capacity and shall be appointed in consultation with, and with the approval of, the contracting parties concerned.

6. In conducting its examination and having before it all the background information, the panel shall take due account of all the circumstances and considerations relating to the application of the measures complained of, and their impact on the trade and economic development of affected contracting parties.

7. The panel shall, within a period of sixty days from the date the matter was referred to it, submit its findings and recommendations to the CONTRACTING PARTIES or to the Council, for consideration and decision. Where the matter is referred to the Council, it may, in accordance with Rule 8 of the Intersessional Procedures adopted by the CONTRACTING PARTIES at their thirteenth session [1], address its recommendations directly to the interested contracting parties and concurrently report to the CONTRACTING PARTIES.

8. Within a period of ninety days from the date of the decision of the CONTRACTING PARTIES or the Council, the contracting party to which a recommendation is directed shall report to the CONTRACTING PARTIES or the Council on the action taken by it in pursuance of the decision.

[1] BISD, Seventh Supplement, page 7.

2.e Procedures under Article XXIII. Decision of 5 April 1966 *(continued)*

9. If on examination of this report it is found that a contracting party to which a recommendation has been directed has not complied in full with the relevant recommendation of the CONTRACTING PARTIES or the Council, and that any benefit accruing directly or indirectly under the General Agreement continues in consequence to be nullified or impaired, and that the circumstances are serious enough to justify such action, the CONTRACTING PARTIES may authorize the affected contracting party or parties to suspend, in regard to the contracting party causing the damage, application of any concession or any other obligation under the General Agreement whose suspension is considered warranted, taking account of the circumstances.

10. In the event that a recommendation to a developed country by the CONTRACTING PARTIES is not applied within the time-limit prescribed in paragraph 8, the CONTRACTING PARTIES shall consider what measures, further to those undertaken under paragraph 9, should be taken to resolve the matter.

11. If consultations, held under paragraph 2 of Article XXXVII, relate to restrictions for which there is no authority under any provisions fo the General Agreement, any of the parties to the consultations may, in the absence of a satisfactory solution, request that consultations be carried out by the CONTRACTING PARTIES pursuant to paragraph 2 of Article XXIII and in accordance with the procedures set out in the present decision, it being understood that a consultation held under paragraph 2 of Article XXXVII in respect of such restrictions will be considered by the CONTRACTING PARTIES as fulfilling the conditions of paragraph 1 of Article XXIII if the parties to the consultations so agree.

(...)

Source: Document L/2644 of 5 April 1966, BISD 14S/18.

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979

GENERAL AGREEMENT ON TARIFFS AND TRADE

L/4907
3 December 1979
Limited Distribution

UNDERSTANDING REGARDING NOTIFICATION, CONSULTATION, DISPUTE SETTLEMENT AND SURVEILLANCE

Adopted on 28 November 1979

1. The CONTRACTING PARTIES reaffirm their adherence to the basic GATT mechanism for the management of disputes based on Articles XXII and XXIII.[1] With a view to improving and refining the GATT mechanism, the CONTRACTING PARTIES agree as follows:

Notification

2. Contracting parties reaffirm their commitment to existing obligations under the General Agreement regarding publication and notification.[2]

3. Contracting parties moreover undertake, to the maximum extent possible, to notify the CONTRACTING PARTIES of their adoption of trade measures affecting the operation of the General Agreement, it being understood that such notification would of itself be without prejudice to views on the consistency of measures with or their relevance to rights and obligations under the General Agreement. Contracting parties should endeavour to notify such measures in advance of implementation. In other cases, where prior notification has not been possible, such measures should be notified promptly ex post facto. Contracting parties which have reason to believe that such trade measures have been adopted by another contracting party may seek information on such measures bilaterally, from the contracting party concerned.

Consultations

4. Contracting parties reaffirm their resolve to strengthen and improve the effectiveness of consultative procedures employed by contracting parties. In that connexion, they undertake to respond to requests for consultations promptly and to attempt to conclude consultations expeditiously, with a view to reaching mutually satisfactory conclusions. Any requests for consultations should include the reasons therefor.

5. During consultations, contracting parties should give special attention to the particular problems and interests of less-developed contracting parties.

6. Contracting parties should attempt to obtain satisfactory adjustment of the matter in accordance with the provisions of Article XXIII:1 before resorting to Article XXIII:2.

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[1] It is noted that Article XXV may, as recognized by the CONTRACTING PARTIES, inter alia, when they adopted the report of the Working Party on particular difficulties connected with trade in primary products (L/930), also afford an appropriate avenue for consultation and dispute settlement in certain circumstances.

[2] See secretariat note, "Notifications required from contracting parties (MTN/FR/W/17, dated 1 August 1978).

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979 *(continued)*

Dispute settlement

7. The CONTRACTING PARTIES agree that the customary practice of the GATT in the field of dispute settlement, described in the Annex, should be continued in the future, with the improvements set out below. They recognize that the efficient functioning of the system depends on their will to abide by the present understanding. The CONTRACTING PARTIES reaffirm that the customary practice includes the procedures for the settlement of disputes between developed and less-developed countries adopted by the CONTRACTING PARTIES in 1966 (BISD, fourteenth supplement, page 18) and that these remain available to less-developed contracting parties wishing to use them.

8. If a dispute is not resolved through consultations the contracting parties concerned may request an appropriate body or individual to use their good offices with a view to the conciliation of the outstanding differences between the parties. If the unresolved dispute is one in which a less-developed contracting party has brought a complaint against a developed contracting party, the less-developed contracting party may request the good offices of the Director-General who, in carrying out his tasks, may consult with the Chairman of the CONTRACTING PARTIES and the Chairman of the Council.

9. It is understood that requests for conciliation and the use of the dispute settlement procedures of Article XXIII:2 should not be intended or considered as contentious acts and that, if disputes arise, all contracting parties will engage in these procedures in good faith in an effort to resolve the disputes. It is also understood that complaints and counter-complaints in regard to distinct matters should not be linked.

10. It is agreed that if a contracting party invoking Article XXIII:2 requests the establishment of a panel to assist the CONTRACTING PARTIES to deal with the matter, the CONTRACTING PARTIES would decide on its establishment in accordance with standing practice. It is also agreed that the CONTRACTING PARTIES would similarly decide to establish a working party if this were requested by a contracting party invoking the Article. It is further agreed that such requests would be granted only after the contracting party concerned had had an opportunity to study the complaint and respond to it before the CONTRACTING PARTIES.

11. When a panel is set up, the Director-General, after securing the agreement of the contracting parties concerned, should propose the composition of the panel, of three or five members depending on the case, to the CONTRACTING PARTIES for approval. The members of a panel would preferably be governmental. It is understood that citizens of countries whose governments[1] are parties to the dispute would not be members of the panel concerned with

[1] In the case customs unions or common markets are parties to a dispute, this provision applies to citizens of all member countries of the customs unions or common markets.

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979 *(continued)*

that dispute. The panel should be constituted as promptly as possible and normally not later than thirty days from the decision by the CONTRACTING PARTIES.

12. The parties to the dispute would respond within a short period of time, i.e., seven working days, to nominations of panel members by the Director-General and would not oppose nominations except for compelling reasons.

13. In order to facilitate the constitution of panels, the Director-General should maintain an informal indicative list of governmental and non-governmental persons qualified in the fields of trade relations, economic development, and other matters covered by the General Agreement, and who could be available for serving on panels. For this purpose, each contracting party would be invited to indicate at the beginning of every year to the Director-General the name of one or two persons who would be available for such work.[1]

14. Panel members would serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments would therefore not give them instructions nor seek to influence them as individuals with regard to matters before a panel. Panel members should be selected with a view to ensuring the independence of the members, a sufficiently diverse background and a wide spectrum of experience.[2]

15. Any contracting party having a substantial interest in the matter before a panel, and having notified this to the Council, should have an opportunity to be heard by the panel. Each panel should have the right to seek information and technical advice from any individual or body which it deems appropriate. However, before a panel seeks such information or advice from any individual or body within the jurisdiction of a State it shall inform the government of that State. Any contracting party should respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information which is provided should not be revealed without formal authorization from the contracting party providing the information.

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[1] The coverage of travel expenses should be considered within the limits of budgetary possibilities.

[2] A statement is included in the Annex describing the current practice with respect to inclusion on panels of persons from developing countries.

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979 *(continued)*

16. The function of panels is to assist the CONTRACTING PARTIES in discharging their responsibilities under Article XXIII:2. Accordingly, a panel should make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the General Agreement and, if so requested by the CONTRACTING PARTIES, make such other findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2. In this connexion, panels should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution.

17. Where the parties have failed to develop a mutually satisfactory solution, the panel should submit its findings in a written form. The report of a panel should normally set out the rationale behind any findings and recommendations that it makes. Where a bilateral settlement of the matter has been found, the report of the panel may be confined to a brief description of the case and to reporting that a solution has been reached.

18. To encourage development of mutually satisfactory solutions between the parties and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the CONTRACTING PARTIES.

19. If a mutually satisfactory solution is developed by the parties to a dispute before a panel, any contracting party with an interest in the matter has a right to enquire about and be given appropriate information about that solution in so far as it relates to trade matters.

20. The time required by panels will vary with the particular case.[1] However, panels should aim to deliver their findings without undue delay, taking into account the obligation of the CONTRACTING PARTIES to ensure prompt settlement. In cases of urgency the panel would be called upon to deliver its findings within a period normally of three months from the time the panel was established.

21. Reports of panels and working parties should be given prompt consideration by the CONTRACTING PARTIES. The CONTRACTING PARTIES should take appropriate action on reports of panels and working parties within a reasonable period of time. If the case is one brought by a less-developed contracting party, such action should be taken in a specially convened meeting, if necessary. In such cases, in considering what appropriate action might be taken the CONTRACTING PARTIES shall take into account not only the trade coverage of measures complained of, but also their impact on the economy of less-developed contracting parties concerned.

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[1] An explanation is included in the Annex that "in most cases the proceedings of the panels have been completed within a reasonable period of time, extending from three to nine months."

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979 *(continued)*

22. The CONTRACTING PARTIES shall keep under surveillance any matter on which they have made recommendations or given rulings. If the CONTRACTING PARTIES' recommendations are not implemented within a reasonable period of time, the contracting party bringing the case may ask the CONTRACTING PARTIES to make suitable efforts with a view to finding an appropriate solution.

23. If the matter is one which has been raised by a less-developed contracting party, the CONTRACTING PARTIES shall consider what further action they might take which would be appropriate to the circumstances.

Surveillance

24. The CONTRACTING PARTIES agree to conduct a regular and systematic review of developments in the trading system. Particular attention would be paid to developments which affect rights and obligations under the GATT, to matters affecting the interests of less-developed contracting parties, to trade measures notified in accordance with this understanding and to measures which have been subject to consultation, conciliation or dispute settlement procedures laid down in this understanding.

Technical assistance

25. The technical assistance services of the GATT secretariat shall, at the request of a less-developed contracting party, assist it in connexion with matters dealt with in this understanding.

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979 *(continued)*

ANNEX

Agreed Description of the Customary Practice of the GATT in the Field of Dispute Settlement (Article XXIII:2)

1. Any dispute which has not been settled bilaterally under the relevant provisions of the General Agreement may be referred to the CONTRACTING PARTIES[1] which are obliged, pursuant to Article XXIII:2, to investigate matters submitted to them and make appropriate recommendations or give a ruling on the matter as appropriate. Article XXIII:2 does not indicate whether disputes should be handled by a working party or by a panel.[2]

2. The CONTRACTING PARTIES adopted in 1966 a decision establishing the procedure to be followed for Article XXIII consultations between developed and less-developed contracting parties (BISD, 14th Supplement, page 18). This procedure provides, inter alia, for the Director-General to employ his good offices with a view to facilitating a solution, for setting up a panel with the task of examining the problem in order to recommend appropriate solutions, and for time-limits for the execution of the different parts of this procedure.

3. The function of a panel has normally been to review the facts of a case and the applicability of GATT provisions and to arrive at an objective assessment of these matters. In this connexion, panels have consulted regularly with the parties to the dispute and have given them adequate opportunity to develop a mutually satisfactory solution. Panels have taken appropriate account of the particular interests of developing countries. In cases of failure of the parties to reach a mutually satisfactory settlement, panels have normally given assistance to the CONTRACTING PARTIES in making recommendations or in giving rulings as envisaged in Article XXIII:2.

4. Before bringing a case, contracting parties have exercised their judgment as to whether action under Article XXIII:2 would be fruitful. Those cases which have come before the CONTRACTING PARTIES under this provision have, with few exceptions, been brought to a satisfactory conclusion. The

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[1] The Council is empowered to act for the CONTRACTING PARTIES, in accordance with normal GATT practice.

[2] At the Review Session (1955) the proposal to institutionalize the procedures of panels was not adopted by CONTRACTING PARTIES mainly because they preferred to preserve the existing situation and not to establish judicial procedures which might put excessive strain on the GATT.

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979 *(continued)*

aim of the CONTRACTING PARTIES has always been to secure a positive solution to a dispute. A solution mutually acceptable to the parties to a dispute is clearly to be preferred. In the absence of a mutually agreed solution, the first objective of the CONTRACTING PARTIES is usually to secure the withdrawal of the measures concerned if these are found to be inconsistent with the General Agreement. The provision of compensation should be resorted to only if the immediate withdrawal of the measure is impracticable and as a temporary measure pending the withdrawal of the measures which are inconsistent with the General Agreement. The last resort which Article XXIII provides to the country invoking this procedure is the possibility of suspending the application of concessions or other obligations on a discriminatory basis vis-à-vis the other contracting party, subject to authorization by the CONTRACTING PARTIES of such measures. Such action has only rarely been contemplated and cases taken under Article XXIII:2 have led to such action in only one case.

5. In practice, contracting parties have had recourse to Article XXIII only when in their view a benefit accruing to them under the General Agreement was being nullified or impaired. In cases where there is an infringement of the obligations assumed under the General Agreement, the action is considered prima facie to constitute a case of nullification or impairment. A prima facie case of nullification or impairment would ipso facto require consideration of whether the circumstances are serious enough to justify the authorization of suspension of concessions or obligations, if the contracting party bringing the complaint so requests. This means that there is normally a presumption that a breach of the rules has an adverse impact on other contracting parties, and in such cases, it is up to the contracting parties against whom the complaint has been brought to rebut the charge. Paragraph 1(b) permits recourse to Article XXIII if nullification or impairment results from measures taken by other contracting parties whether or not these conflict with the provisions of the General Agreement, and paragraph 1(c) if any other situation exists. If a contracting party bringing an Article XXIII case claims that measures which do not conflict with the provisions of the General Agreement have nullified or impaired benefits accruing to it under the General Agreement, it would be called upon to provide a detailed justification.

6. Concerning the customary elements of the procedures regarding working parties and panels, the following elements have to be noted:

(i) working parties are instituted by the Council upon the request of one or several contracting parties. The terms of reference of working parties are generally "to examine the matter in the light of the relevant provisions of the General Agreement and to report to the Council". Working parties set up their own working procedures. The practice for working parties has been to hold

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979 *(continued)*

one or two meetings to examine the matter and a final meeting to discuss conclusions. Working parties are open to participation of any contracting party which has an interest in the matter. Generally working parties consist of a number of delegations varying from about five to twenty according to the importance of the question and the interests involved. The countries who are parties to the dispute are always members of the Working Party and have the same status as other delegations. The report of the Working Party represents the views of all its members and therefore records different views if necessary. Since the tendency is to strive for consensus, there is generally some measure of negotiation and compromise in the formulation of the Working Party's report. The Council adopts the report. The reports of working parties are advisory opinions on the basis of which the CONTRACTING PARTIES may take a final decision.

(ii) In the case of disputes, the CONTRACTING PARTIES have established panels (which have been called by different names) or working parties in order to assist them in examining questions raised under Article XXIII:2. Since 1952, panels have become the usual procedure. However, the Council has taken such decisions only after the party concerned has had an occasion to study the complaint and prepare its response before the Council. The terms of reference are discussed and approved by the Council. Normally, these terms of reference are "to examine the matter and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or rulings provided for in paragraph 2 of Article XXIII". When a contracting party having recourse to Article XXIII:2 raised questions relating to the suspension of concessions or other obligations, the terms of reference were to examine the matter in accordance with the provisions of Article XXIII:2. Members of the panel are usually selected from permanent delegations or, less frequently, from the national administrations in the capitals amongst delegates who participate in GATT activities on a regular basis. The practice has been to appoint a member or members from developing countries when a dispute is between a developing and a developed country.

(iii) Members of panels are expected to act impartially without instructions from their governments. In a few cases, in view of the nature and complexity of the matter, the parties concerned have agreed to designate non-government experts. Nominations are proposed to the parties concerned by the GATT secretariat. The composition of panels (three or five members depending on the case) has been agreed upon

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979 *(continued)*

by the parties concerned and approved by the GATT Council. It is recognized that a broad spectrum of opinion has been beneficial in difficult cases, but that the number of panel members has sometimes delayed the composition of panels, and therefore the process of dispute settlement.

(iv) Panels set up their own working procedures. The practice for the panels has been to hold two or three formal meetings with the parties concerned. The panel invited the parties to present their views either in writing and/or orally in the presence of each other. The panel can question both parties on any matter which it considers relevant to the dispute. Panels have also heard the views of any contracting party having a substantial interest in the matter, which is not directly party to the dispute, but which has expressed in the Council a desire to present its views. Written memoranda submitted to the panel have been considered confidential, but are made available to the parties to the dispute. Panels often consult with and seek information from any relevant source they deem appropriate and they sometimes consult experts to obtain their technical opinion on certain aspects of the matter. Panels may seek advice or assistance from the secretariat in its capacity as guardian of the General Agreement, especially on historical or procedural aspects. The secretariat provides the secretary and technical services for panels.

(v) Where the parties have failed to develop a mutually satisfactory solution, the panel has submitted its findings in a written form. Panel reports have normally set out findings of fact, the applicability of relevant provisions, and the basic rationale behind any findings and recommendations that it has made. Where a bilateral settlement of the matter has been found, the report of the panel has been confined to a brief description of the case and to reporting that a solution has been reached.

(vi) The reports of panels have been drafted in the absence of the parties in the light of the information and the statements made.

(vii) To encourage development of mutually satisfactory solutions between the parties and with a view to obtaining their comments, each panel has normally first submitted the descriptive part of its report to the parties concerned, and also their conclusions, or an outline thereof, a reasonable period of time before they have been circulated to the CONTRACTING PARTIES.

2.f Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, adopted on 28 November 1979 *(continued)*

(viii) In accordance with their terms of reference established by the CONTRACTING PARTIES panels have expressed their views on whether an infringement of certain rules of the General Agreement arises out of the measure examined. Panels have also, if so requested by the CONTRACTING PARTIES, formulated draft recommendations addressed to the parties. In yet other cases panels were invited to give a technical opinion on some precise aspect of the matter (e.g. on the modalities of a withdrawal or suspension in regard to the volume of trade involved). The opinions expressed by the panel members on the matter are anonymous and the panel deliberations are secret.

(ix) Although the CONTRACTING PARTIES have never established precise deadlines for the different phases of the procedure, probably because the matters submitted to panels differ as to their complexity and their urgency, in most cases the proceedings of the panels have been completed within a reasonable period of time, extending from three to nine months.

The 1966 decision by the CONTRACTING PARTIES referred to in paragraph 2 above lays down in its paragraph 7 that the Panel shall report within a period of sixty days from the date the matter was referred to it.

Source: Document L/4907 of 3 December 1979, BISD 26S/210.

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982

GENERAL AGREEMENT ON TARIFFS AND TRADE

L/5424
29 November 1982
Limited Distribution

CONTRACTING PARTIES
Thirty-Eighth Session

MINISTERIAL DECLARATION

Adopted on 29 November 1982

1. The CONTRACTING PARTIES to the General Agreement on Tariffs and Trade have met at Ministerial level on 24-29 November 1982. They recognize that the multilateral trading system, of which the General Agreement is the legal foundation, is seriously endangered. In the current crisis of the world economy, to which the lack of convergence in national economic policies has contributed, protectionist pressures on governments have multiplied, disregard of GATT disciplines has increased and certain shortcomings in the functioning of the GATT system have been accentuated. Conscious of the role of the GATT system in furthering economic well-being and an unprecedented expansion of world trade, and convinced of the lasting validity of the basic principles and objectives of the General Agreement in a world of increasing economic interdependence, the CONTRACTING PARTIES are resolved to overcome these threats to the system.

2. The deep and prolonged crisis of the world economy has severely depressed levels of production and trade. In many countries growth rates are low or negative; there is growing unemployment and a climate of uncertainty, exacerbated by persistent inflation, high rates of interest and volatile exchange rates, which seriously inhibit investment and structural adjustment and intensify protectionist pressures. Many countries, and particularly developing countries, now face critical difficulties created by the combination of uncertain and limited access to export markets, declining external demand, a sharp fall in commodity prices and the high cost of borrowing. The import capacity of developing countries, which is essential to their economic growth and development, is being impaired and is no longer serving as a dynamic factor sustaining the exports of the developed world. Acute problems of debt servicing threaten the stability of the financial system.

3. In the field of trade, the responses of governments to the challenges of the crisis have too often been inadequate and inward-looking. Import restrictions have increased and a growing proportion of them have for various reasons been applied outside GATT disciplines, thus undermining the multilateral trading system. Trade patterns have also been adversely affected by certain forms of economic assistance for production and exports and by some restrictive trade measures applied for non-economic purposes. In the depressed economic circumstances these measures, together with continuing pressures for further protective action, have contributed to further delays in necessary structural adjustment, increased economic uncertainty and discouraged productive investment.

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

4. The results of the Tokyo Round, including in particular the implementation on schedule of the tariff reductions, have provided some impetus to the functioning of the trading system. However, despite the strength and resilience which it has shown, the stresses on the system, which are reflected in the growing number and intensity of disputes between contracting parties, many of which remain unresolved, have made more pronounced certain shortcomings in its functioning. Existing strains have been aggravated by differences of perception regarding the balance of rights and obligations under the GATT, the way in which these rights and obligations have been implemented and the extent to which the interests of different contracting parties have been met by the GATT. There are also concerns over the manner in which rights are being pursued as well as the manner in which obligations are being fulfilled. Disagreements persist over the interpretation of some important provisions and over their application. Disciplines governing the restriction of trade through safeguard measures are inadequate; there is widespread dissatisfaction with the application of GATT rules and the degree of liberalization in relation to agricultural trade, even though such trade has continued to expand; trade in textiles and clothing continues to be treated under an Arrangement which is a major derogation from the General Agreement - a matter of critical importance to developing countries in particular. Such differences and imbalances are particularly detrimental to the stability of the international trading system when they concern access to the markets of major trading countries or when, through the use of export subsidies, competition among major suppliers is distorted.

5. The CONTRACTING PARTIES recognize that the interdependence of national economies means that no country can solve its trade problems in isolation and also that solutions would be greatly facilitated by parallel efforts in the financial and monetary fields. In this light, they commit themselves to reduce trade frictions, overcome protectionist pressures, avoid using export subsidies inconsistent with Article XVI of the GATT and promote the liberalization and expansion of trade. They are therefore determined to create, through concerted action, a renewed consensus in support of the GATT system, so as to restore and reinforce confidence in its capacity to provide a stable and predictable trading environment and respond to new challenges.

6. The CONTRACTING PARTIES have accordingly decided:

- to reaffirm their commitment to abide by their GATT obligations and to support and improve the GATT trading system, so that it may contribute vigorously to the further liberalization and expansion of trade based on mutual commitment, mutual advantage and overall reciprocity, and the most-favoured-nation clause;

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

- to preserve, in the operation and functioning of GATT instruments, the unity and consistency of the GATT system; and

- to ensure that GATT provides a continuing forum for negotiation and consultation, in which an appropriate balance of rights and obligations can be assured for all contracting parties and the rules and procedures of the system are effectively and fairly applied, on the basis of agreed interpretations, for the economic development and benefit of all.

7. In drawing up the work programme and priorities for the 1980's, the contracting parties undertake, individually and jointly:

(i) to make determined efforts to ensure that trade policies and measures are consistent with GATT principles and rules and to resist protectionist pressures in the formulation and implementation of national trade policy and in proposing legislation; and also to refrain from taking or maintaining any measures inconsistent with GATT and to make determined efforts to avoid measures which would limit or distort international trade:

(ii) to give fullest consideration, in the application of measures falling within the GATT framework, and in the general exercise of their GATT rights, to the trading interests of other contracting parties and the shared objective of trade liberalization and expansion;

(iii) to abstain from taking restrictive trade measures, for reasons of a non-economic character, not consistent with the General Agreement;

(iv)(a) to ensure the effective implementation of GATT rules and provisions and specifically those concerning the developing countries, thereby furthering the dynamic role of developing countries in international trade;

(b) to ensure special treatment for the least-developed countries, in the context of differential and more favourable treatment for developing countries, in order to ameliorate the grave economic situation of these countries;

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

(v) to bring agriculture more fully into the multilateral trading system by improving the effectiveness of GATT rules, provisions and disciplines and through their common interpretation; to seek to improve terms of access to markets; and to bring export competition under greater discipline. To this end a major two-year work programme shall be undertaken.

(vi) to bring into effect expeditiously a comprehensive understanding on safeguards to be based on the principles of the General Agreement;

(vii) to ensure increased transparency of trade measures and the effective resolution of disputes through improvements in the operation of the pertinent procedures, supported by a determination to comply with rulings and respect recommendations;

(viii) to examine ways and means of, and to pursue measures aimed at, liberalizing trade in textiles and clothing, including the eventual application of the General Agreement, after the expiry of the 1981 Protocol extending the Arrangement Regarding International Trade in Textiles, it being understood that in the interim the parties to the Arrangement shall adhere strictly to its rules;

(ix) to give continuing consideration to changes in the trading environment so as to ensure that the GATT is responsive to these changes.

SAFEGUARDS

The CONTRACTING PARTIES decide:

1. That, having regard to the objectives and disciplines of the General Agreement, there is need for an improved and more efficient safeguard system which provides for greater predictability and clarity and also greater security and equity for both importing and exporting countries, so as to preserve the results of trade liberalization and avoid the proliferation of restrictive measures; and

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

2. That to this end, effect should be given to a comprehensive understanding to be based on the principles of the General Agreement which would contain, inter alia, the following elements:

(i) Transparency;

(ii) Coverage;

(iii) Objective criteria for action including the concept of serious injury or threat thereof;

(iv) Temporary nature, degressivity and structural adjustment;

(v) Compensation and retaliation; and

(vi) Notification, consultation, multilateral surveillance and dispute settlement with particular reference to the role and functions of the Safeguards Committee.

3. That such an understanding should be drawn up by the Council for adoption by the CONTRACTING PARTIES not later than their 1983 Session.

GATT RULES AND ACTIVITIES RELATING TO DEVELOPING COUNTRIES

The CONTRACTING PARTIES:

1. Instruct the Committee on Trade and Development bearing in mind particularly the special responsibility of the developed contracting parties in this regard, to consult on a regular basis with contracting parties individually or collectively, as appropriate to examine how individual contracting parties have responded to the requirements of Part IV.

2. Urge contracting parties to implement more effectively Part IV and the Decision of 28 November 1979 regarding "differential and more favourable treatment, reciprocity and fuller participation of developing countries";

3. Urge contracting parties to work towards further improvement of GSP or MFN treatment for products of particular export interest to least-developed countries, and the elimination or reduction of non-tariff measures affecting such products;

4. Agree to strengthen the technical co-operation programme of GATT;

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

5. Instruct the Committee on Trade and Development to carry out an examination of the prospects for increasing trade between developed and developing countries and the possibilities in GATT for facilitating this objective;

To this effect, the CONTRACTING PARTIES are also taking the decisions annexed and decide to review the action taken in these areas at their 1984 Session.

DISPUTE SETTLEMENT PROCEDURES

The CONTRACTING PARTIES:

Agree that the Understanding on Notification, Consultation, Surveillance and Dispute Settlement negotiated during the Tokyo Round (hereinafter referred to as the "Understanding") provides the essential framework of procedures for the settlement of disputes among contracting parties and that no major change is required in this framework, but that there is scope for more effective use of the existing mechanism and for specific improvements in procedures to this end;

And agree further that:

(i) With reference to paragraph 8 of the Understanding, if a dispute is not resolved through consultations, any party to a dispute may, with the agreement of the other party, seek the good offices of the Director-General or of an individual or group of persons nominated by the Director-General. This conciliatory process would be carried out expeditiously, and the Director-General would inform the Council of the outcome of the conciliatory process. Conciliation proceedings, and in particular positions taken by the parties to the dispute during conciliation, shall be confidential, and without prejudice to the rights of either party in any further proceedings under Article XXIII:2. It would remain open at any time during any conciliatory process for either party to the dispute to refer the matter to the CONTRACTING PARTIES.

(ii) In order to ensure more effective compliance with the provisions of paragraphs 11 and 12 of the Understanding, the Director-General shall inform the Council of any case in which it has not been found possible to meet the time-limits for the establishment of a panel.

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

(iii) With reference to paragraph 13 of the Understanding, contracting parties will co-operate effectively with the Director-General in making suitably qualified experts available to serve on panels. Where experts are not drawn from Geneva, any expenses, including travel and subsistence allowance, shall be met from the GATT budget.

(iv) The secretariat of GATT has the responsibility of assisting the panel, especially on the legal, historical and procedural aspects of the matters dealt with.

(v) The terms of reference of a panel should be formulated so as to permit a clear finding with respect to any contravention of GATT provisions and/or on the question of nullification and impairment of benefits. In terms of paragraph 16 of the Understanding, and after reviewing the facts of the case, the applicability of GATT provisions and the arguments advanced, the panel should come to such a finding. Where a finding establishing a contravention of GATT provisions or nullification and impairment is made, the panel should make such suggestions as appropriate for dealing with the matter as would assist the CONTRACTING PARTIES in making recommendations to the contracting parties which they consider to be concerned, or give a ruling on the matter, as appropriate.

(vi) Panels would aim to deliver their findings without undue delay, as provided in paragrah 20 of the Understanding. If a complete report cannot be made within the period foreseen in that paragraph, panels would be expected to so advise the Council and the report should be submitted as soon as possible thereafter.

(vii) Reports of panels should be given prompt consideration by the CONTRACTING PARTIES. Where a decision on the findings contained in a report calls for a ruling or recommendation by the Council, the Council may allow the contracting party concerned a reasonable specified time to indicate what action it proposes to take with a view to a satisfactory settlement of the matter, before making any recommendation or ruling on the basis of the report.

(viii) The recommendation or ruling made by the CONTRACTING PARTIES shall be aimed at achieving a satisfactory settlement of the matter in accordance with GATT obligations. In furtherance of the provisions of paragraph 22 of the Understanding the Council shall periodically review the action taken pursuant to such recommendations. The contracting party to which such a recommendation has been addressed, shall report within a reasonable specified period on action taken or on its reasons for

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

not implementing the recommendation or ruling by the CONTRACTING PARTIES. The contracting party bringing the case may also ask the CONTRACTING PARTIES to make suitable efforts with a view to finding an appropriate solution as provided in paragraph 22 of the Understanding.

(ix) The further action taken by the CONTRACTING PARTIES in the above circumstances might include a recommendation for compensatory adjustment with respect to other products or authorization for the suspension of such concessions or other obligations as foreseen in Article XXIII:2, as the CONTRACTING PARTIES may determine to be appropriate in the circumstances.

(x) The Parties to a dispute would fully participate in the consideration of the matter by the CONTRACTING PARTIES under paragraph (vii) above, including the consideration of any rulings or recommendations the CONTRACTING PARTIES might make pursuant to Article XXIII:2 of the General Agreement, and their views would be fully recorded. They would likewise participate and have their views recorded in the considerations of the further actions provided for under paragraphs (viii) and (ix) above. The CONTRACTING PARTIES reaffirmed that consensus will continue to be the traditional method of resolving disputes; however, they agreed that obstruction in the process of dispute settlement shall be avoided.[1] It is understood that decisions in this process cannot add to or diminish the rights and obligations provided in the General Agreement.

TRADE IN AGRICULTURE

With the purpose of accelerating the achievement of the objectives of the General Agreement, including Part IV, and recognizing that there is an urgent need to find lasting solutions to the problems of trade in agricultural products, the CONTRACTING PARTIES decide:

1. That the following matters be examined, in the light of the objectives, principles and relevant provisions of the General Agreement and also taking into account the effects of national agricultural policies, with the purpose of making appropriate recommendations. The examination shall cover all measures affecting trade, market access and competition and supply in agricultural products, including subsidies and other forms of assistance.

[1] This does not prejudice the provisions on decision making in the General Agreement.

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

(i) Trade measures affecting market access and supplies, with a view to achieving greater liberalization in the trade of agricultural products, with respect to tariffs and non-tariff measures, on a basis of overall reciprocity and mutual advantage under the General Agreement.

(ii) The operation of the General Agreement as regards subsidies affecting agriculture, especially export subsidies, with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of the General Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties. Other forms of export assistance will be included in this examination.

(iii) Trade measures affecting agriculture maintained under exceptions or derogations without prejudice to the rights of contracting parties under the General Agreement.

2. That in carrying out the tasks enumerated above, full account shall be taken of the need for a balance of rights and obligations under the GATT, and of the special needs of developing countries in the light of the GATT provisions providing for differential and more favourable treatment for such contracting parties. Full account shall also be taken of specific characteristics and problems in agriculture, of the scope for improving the operation of GATT rules, provisions and disciplines and agreed interpretations of its provisions.

3. That for the purpose of carrying out this work, an improved and unified system of notifications shall be introduced so as to ensure full transparency.

4. That a Committee on Trade in Agriculture shall be established, open to all contracting parties, for the purpose of carrying out the tasks enumerated above and of making recommendations with a view to achieving greater liberalization in the trade of agricultural products. The Committee will report periodically on the results achieved and make appropriate recommendations to the Council and the CONTRACTING PARTIES for consideration not later than their 1984 Session.

TROPICAL PRODUCTS

The CONTRACTING PARTIES decide to carry out, on the basis of the work programme pursued by the Committee on Trade and Development, consultations and appropriate negotiations aimed at further liberalization of trade in tropical products, including in their processed and semi-processed forms, and to review the progress achieved in eliminating or reducing existing obstacles to trade in tropical products at their 1984 Session.

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

QUANTITATIVE RESTRICTIONS AND OTHER NON-TARIFF MEASURES

The CONTRACTING PARTIES decide:

1. To review, in a group created for the purpose, existing quantitative restrictions and other non-tariff measures, the grounds on which these are maintained, and their conformity with the provisions of the General Agreement, so as to achieve the elimination of quantitative restrictions which are not in conformity with the General Agreement or their being brought into conformity with the General Agreement, and also to achieve progress in liberalizing other quantitative restrictions and non-tariff measures, adequate attention being given to the need for action on quantitative restrictions and other measures affecting products of particular export interest to developing countries; and

2. That the group should make progress reports to the Council and that its complete report containing its findings and conclusions should be available for consideration by the CONTRACTING PARTIES at their 1984 Session.

TARIFFS

The CONTRACTING PARTIES decide:

1. That prompt attention should be given to the problem of escalation of tariffs on products with increased processing with a view to effective action towards the elimination or reduction of such escalation where it inhibits international trade, taking into account the concerns relating to exports of developing countries; and agree

2. That wide acceptance of a common system for classifying products for tariff and statistical purposes would facilitate world trade and therefore recommend prompt action towards the introduction of such a system. They take note of the ongoing work to this end in the Customs Co-operation Council. They further agree that, if such a system is introduced, the general level of benefits provided by GATT concessions must be maintained, that existing concessions should normally remain unchanged and that any negotiations that may prove necessary should be initiated promptly so as to avoid any undue delay in the implementation of a system. They also agree that technical support shall be provided by the GATT secretariat to developing contracting parties in order to fully assist their participation in such a process.

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

MTN AGREEMENTS AND ARRANGEMENTS

The CONTRACTING PARTIES decide to review the operation of the MTN Agreements and Arrangements, taking into account reports from the Committees or Councils concerned, with a view to determining what action if any is called for, in terms of their decision of November 1979. The CONTRACTING PARTIES further agree that, for this purpose, the review should focus on the adequacy and effectiveness of these Agreements and Arrangements and the obstacles to the acceptance of these Agreements and Arrangements by interested parties.

STRUCTURAL ADJUSTMENT AND TRADE POLICY

The CONTRACTING PARTIES decide to continue the work on structural adjustment and trade policy in order to focus on the interaction between structural adjustment and the fulfillment of the objectives of the General Agreement, and to review the results of this work at their 1983 Session.

TRADE IN COUNTERFEIT GOODS

The CONTRACTING PARTIES instruct the Council to examine the question of counterfeit goods with a view to determining the appropriateness of joint action in the GATT framework on the trade aspects of commercial counterfeiting and, if such joint action is found to be appropriate, the modalities for such action, having full regard to the competence of other international organizations. For the purposes of such examination, the CONTRACTING PARTIES request the Director-General to hold consultations with the Director-General of WIPO in order to clarify the legal and institutional aspects involved.

EXPORT OF DOMESTICALLY PROHIBITED GOODS

The CONTRACTING PARTIES decide that contracting parties shall, to the maximum extent feasible, notify GATT of any goods produced and exported by them but banned by their national authorities for sale on their domestic markets on grounds of human health and safety. At their 1984 Session, the CONTRACTING PARTIES will consider in the light of experience gained with this notification procedure, the need for study of problems relevant to the GATT in relation to exports of domestically prohibited goods and of any action that may be appropriate to deal with such problems.

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

EXPORT CREDITS FOR CAPITAL GOODS

The CONTRACTING PARTIES:

1. Are aware that official export credit provisions on capital goods which apply to developing countries may pose problems for the expansion of imports into these countries consistent with their trade and development needs;

2. Therefore recommend that contracting parties, members of those international arrangements concerning official export credit matters, when reviewing or revising their various international undertakings, give special attention to relevant credit provisions, including specific terms and conditions, in order to facilitate the expansion of developing countries' imports of capital goods consistent with their trade and development needs; and

3. Request the Director-General of the GATT to consult with the contracting parties concerned and report to the 39th Session.

TEXTILES AND CLOTHING

The CONTRACTING PARTIES decide:

1. To carry out on a priority basis a study of:

(i) the importance of textiles and clothing in world trade and particularly for the trade prospects of developing countries;

(ii) the impact on economic activity and prospects of countries participating in textiles trade, of the existing systems of restraints and restrictions relating to textiles and clothing, principally the MFA;

(iii) consequences for economic and trade prospects in these countries of a phasing out on the basis of the provisions of the General Agreement, or of the continued maintenance, of the restraints and restrictions applied under the existing textile and clothing regimes, principally the MFA; and

2. To examine expeditiously, taking into account the results of such a study, modalities of further trade liberalization in textiles and clothing

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

including the possibilities for bringing about the full application of GATT provisions to this sector of trade.

3. This work should be completed for consideration by the CONTRACTING PARTIES at their 1984 Session.

PROBLEMS OF TRADE IN CERTAIN NATURAL RESOURCE PRODUCTS

The CONTRACTING PARTIES decide:

1. That problems relating to trade in the following natural resource products including in their semi-processed and processed forms, falling under the competence of the General Agreement relating to tariffs, non-tariff measures and other factors affecting trade, should be examined with a view to recommending possible solutions:

(a) Non-ferrous metals and minerals

(b) Forestry products

(c) Fish and fisheries products

2. That for this purpose the Council should decide, for each of these three items, the terms of reference, time frame and procedures.

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

EXCHANGE RATE FLUCTUATIONS AND THEIR EFFECT ON TRADE

The CONTRACTING PARTIES decide:

To request the Director-General to consult the Managing Director of the International Monetary Fund on the possibility of a study of the effects of erratic fluctuations in exchange rates on international trade, to report to the Council on the results of these consultations and to forward any such study to the Council so that it may consider any implications for the General Agreement.

DUAL PRICING AND RULES OF ORIGIN

The CONTRACTING PARTIES decide:

To request the Council to make arrangements for studies of dual-pricing practices and rules of origin; and

To consider what further action may be necessary with regard to these matters when the results of these studies are available.

SERVICES

The CONTRACTING PARTIES decide:

1. To recommend to each contracting party with an interest in services of different types to undertake, as far as it is able, national examination of the issues in this sector.

2. To invite contracting parties to exchange information on such matters among themselves, inter alia through international organizations such as GATT. The compilation and distribution of such information should be based on as uniform a format as possible.

3. To review the results of these examinations, along with the information and comments provided by relevant international organizations, at their 1984 Session and to consider whether any multilateral action in these matters is appropriate and desirable.

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

ANNEX

GATT RULES AND ACTIVITIES RELATING TO DEVELOPING COUNTRIES

The CONTRACTING PARTIES:

1. Decide, in order to improve the review and surveillance procedures in regard to the implementation of Part IV, that:

(a) the Committee on Trade and Development, bearing in mind particularly the special responsibility of the developed contracting parties in this regard, shall adopt a programme of consultations with contracting parties individually or collectively, as appropriate, to examine how individual contracting parties have responded to the requirements of Part IV;

(b) each such consultation shall be based on information supplied by the contracting party or parties in question and additional factual material prepared by the secretariat;

(c) the Committee on Trade and Development shall also examine other aspects of existing procedures for reviewing the implementation of Part IV and for dealing with problems relating to the application of its provisions, and prepare guidelines for their improvement.

2. Invite the Committee on Trade and Development to review the operation of the Enabling Clause as provided for in its paragraph 9, with a view to its more effective implementation, inter alia, with respect to objectivity and transparency of modifications to GSP schemes and the operation of consultative provisions relating to differential and more favourable treatment for developing countries;

3. Invite contracting parties to pursue action as follows towards facilitating trade of least-developed countries and reducing tariff and non-tariff obstacles to their exports:

(a) further improve GSP or m.f.n. treatment for products of particular export interest to least-developed countries, with the objective of providing fullest possible duty-free access to such products;

(b) use, upon request and where feasible, of more flexible requirements for rules of origin for products of particular export interest to least-developed countries;

2.g Decision on Dispute Settlement contained in the Ministerial Declaration, adopted on 29 November 1982 *(continued)*

(c) eliminate or reduce non-tariff measures affecting products of particular export interest to least-developed countries;

(d) facilitate the participation of least-developed countries in MTN Agreements and Arrangements;

(e) strengthen the technical assistance facilities of the GATT secretariat targeted to the special requirements of least-developed countries;

(f) strengthen trade promotion activities, through the ITC and other initiatives, such as by encouraging the establishment of import promotion offices in importing countries;

(g) give more emphasis to the discussion and examination of policy issues of interest to least-developed countries in the context of further efforts to liberalize trade.

4. Decide to strengthen the Technical Co-operation programme of the GATT with a view to facilitating the more effective participation of developing countries in the GATT trading system:

(a) by responding to increasing requests for seminars and other technical assistance activities;

(b) by permitting increased participation in the GATT Commercial Policy Courses, and the inclusion in the training programme of a regular course in the Spanish language;

(c) by encouraging, in the context of this programme, appropriate contributions from individual contracting parties.

5. Invite contracting parties individually to grant new voluntary contributions or provide other forms of assistance to the ITC.

Source: Document L/5424 of 29 November 1982, BISD 29S/13.

2.h Dispute Settlement Procedures. Action taken on 30 November 1984

GENERAL AGREEMENT ON TARIFFS AND TRADE

L/ 5752
20 December 1984
Limited Distribution

DISPUTE SETTLEMENT PROCEDURES

Fortieth Session of the CONTRACTING PARTIES

Action taken on 30 November 1984

I. The CONTRACTING PARTIES adopted the following proposal in L/5718/Rev.1:

At the 1982 Ministerial it was agreed that the Dispute Settlement "Understanding" provides the essential framework of procedures for the settlement of disputes among contracting parties and that no major change is required in this framework, but that there is scope for more effective use of the existing mechanism and for specific improvements in procedures to this end.

However, if improvement in the whole system is to be achieved, it is necessary not only to make specific procedural improvements, but also to obtain a clear cut understanding by and commitment from the CONTRACTING PARTIES (or Signatories to the Codes) with respect to the nature and time-frame of (a) the panel process; (b) the decision on the dispute matter to be taken by the CONTRACTING PARTIES (or the Code Committee) on the basis of the panel's report; and (c) the follow-up to be given to that decision by the parties to the dispute.

A number of procedural problems related to the panel process have been encountered which can be addressed within the existing framework. Such problems include the formation of panels in a timely manner, and the timely completion of panel work. Although the "Understanding" provides guidelines for these procedures (thirty days for the formation of a panel and three to nine months to complete the panel's work), experience has shown these time targets are seldom met. These are only a couple of difficulties related to the dispute settlement mechanism, so addressing them alone will not cure all its deficiencies. However, procedural improvements can lead to improvements in the quality of panel reports. Therefore, the CONTRACTING PARTIES agree that, as a first step, the following approach should be adopted, on a trial basis, for a period of one year in order to continue the process of improving the operation of the system.

84-2517

2.h Dispute Settlement Procedures. Action taken on 30 November 1984 *(continued)*

Formation of panels

1. Contracting parties should indicate to the Director-General the names of persons they think qualified to serve as panelists, who are not presently affiliated with national administrations but who have a high degree of knowledge of international trade and experience of the GATT. These names should be used to develop a short roster of non-governmental panelists to be agreed upon by the CONTRACTING PARTIES in consultation with the Director-General. The roster should be as representative as possible of contracting parties.

2. The Director-General should continue the practice of proposing panels composed preferably of governmental representatives but may also draw as necessary on persons on the approved roster. The parties should retain the ability to respond to the Director-General's proposal, but shall not oppose nominations except for compelling reasons.

3. In the event that panel composition cannot be agreed within thirty days after a matter is referred by the CONTRACTING PARTIES, the Director-General shall, at the request of either party and in consultation with the Chairman of the Council, complete the panel by appointing persons from the roster of non-governmental panelists to resolve the deadlock, after consulting both parties.

Completion of panel work

1. Panels should continue to set their own working procedures and, where possible, panels should provide the parties to the dispute at the outset with a proposed calendar for the panel's work.

2. Where written submissions are requested from the parties, panels should set precise deadlines, and the parties to a dispute should respect those deadlines.

II. The CONTRACTING PARTIES referred proposals by Canada (L/5720) and Nicaragua (L/5731) to the Council for any appropriate action.

Source: Document L/5752 of 20 December 1984, BISD 31S/9.

2.i Derestriction of Future Panel Reports. Decision by the Council of 4 May 1988

DERESTRICTION OF FUTURE PANEL REPORTS

Decision by the Council of 4 May 1988
(Extract from C/M/220)

The Council *agreed* that in future, panel reports would be derestricted upon their adoption by the Council or the CONTRACTING PARTIES unless, prior to adoption, a party to the dispute had informed the Council Chairman or CONTRACTING PARTIES' Chairman that it opposed derestriction in that particular case. The Secretariat would check with the parties to a dispute prior to the Council meeting or CONTRACTING PARTIES' Session in this connection.

(...)

Source: Document C/M/220 of 8 June 1988, BISD 35S/331.

2.j Trade Negotiations Committee Meeting at Ministerial Level, Montreal, December 1988

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

RESTRICTED
MTN.TNC/7(MIN)
9 December 1988
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Trade Negotiations Committee

TRADE NEGOTIATIONS COMMITTEE MEETING
AT MINISTERIAL LEVEL

Montreal, December 1988

The Trade Negotiations Committee meeting at Montreal at Ministerial level decides that:

- the Committee will hold a meeting at the level of high officials in the first week of April 1989;
- the results achieved at its Montreal meeting as reflected in the present document are put "on hold" until that meeting;
- during the period up to April 1989, Mr. Arthur Dunkel, in his capacity as Chairman of the Committee at official level should conduct high level consultations on the four items (Textiles and Clothing; Agriculture; Safeguards; and Trade Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods) which require further consideration;
- the entire package of subjects, the results achieved in Montreal and the other items, should be reviewed at the meeting of the Trade Negotiations Committee in April 1989.

The Committee declares its determination to press forward and complete the negotiations as foreseen in 1990.

(...)

GATT SECRETARIAT
UR-88-0695

2.j Trade Negotiations Committee Meeting at Ministerial Level, Montreal, December 1988 *(continued)*

(...)

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Page 26

DISPUTE SETTLEMENT

1. Ministers recommend approval by the CONTRACTING PARTIES of the improvements of the GATT dispute settlement rules and procedures set out below and their application on a trial basis from 1 January 1989 to the end of the Uruguay Round.

2. Ministers decide that the Negotiating Group on Dispute Settlement shall continue its work for the full achievement of the negotiating objective, taking into account proposals which have been presented and without prejudice to positions taken by participants. Such work would include, inter alia, further examination of improved and strengthened procedures concerning the implementation of recommendations or rulings of the CONTRACTING PARTIES, as well as of the definition, determination and modalities of compensation, and the issues raised in paragraphs A.2 and G.3 of the Dispute Settlement text in Section III of MTN.GNG/13.

Improvements to the GATT Dispute Settlement Rules and Procedures

A. General Provisions

1. Contracting parties recognize that the dispute settlement system of GATT serves to preserve the rights and obligations of contracting parties under the General Agreement and to clarify the existing provisions of the General Agreement. It is a central element in providing security and predictability to the multilateral trading system.

2. Contracting parties agree that all solutions to matters formally raised under the GATT dispute settlement system under Articles XXII, XXIII and arbitration awards shall be consistent with the General Agreement and shall not nullify or impair benefits accruing to any contracting party under the General Agreement, nor impede the attainment of any objective of the General Agreement.

3. Contracting parties agree that the existing rules and procedures of the GATT in the field of dispute settlement shall continue. It is further agreed that the improvements set out below, which aim to ensure prompt and effective resolution of disputes to the benefit of all contracting parties, shall be applied on a trial basis from 1 January 1989 to the end of the Uruguay Round in respect of complaints brought during that period under Article XXII or XXIII; it is also agreed to keep the application of these improvements under review during the remainder of the Round and to decide on their adoption before the end of the Round; to continue negotiations with the aim of further improving and strengthening the GATT dispute settlement system taking into account the experience gained in the application of these improvements.

2.j Trade Negotiations Committee Meeting at Ministerial Level, Montreal, December 1988 *(continued)*

4. All the points set out in this document shall be applied without prejudice to any provision on special and differential treatment for developing contracting parties in the existing instruments on dispute settlement including the CONTRACTING PARTIES' Decision of 5 April 1966.

B. Notification

Mutually agreed solutions to matters formally raised under GATT Articles XXII and XXIII, as well as arbitration awards within GATT, must be notified to the Council where any contracting party may raise any point relating thereto.

C. Consultations

1. If a request is made under Article XXII:1 or XXIII:1, the contracting party to which the request is made shall, unless otherwise mutually agreed, reply to the request within ten days after its receipt and shall enter into consultations in good faith within a period of no more than thirty days from the date of the request, with a view to reaching a mutually satisfactory solution. If the contracting party does not respond within ten days, or does not enter into consultations within a period of no more than thirty days, or a period otherwise mutually agreed, from the date of the request, then the contracting party that requested the holding of consultations may proceed directly to request the establishment of a panel or a working party.

2. If the consultations under Article XXII:1 or XXIII:1 fail to settle a dispute within sixty days after the request for consultations, the complaining party may request the establishment of a panel or a working party under Article XXIII:2. The complaining party may request a panel or a working party during the sixty day period if the parties jointly consider that consultations have failed to settle the dispute.

3. Requests for consultations under Article XXII:1 or XXIII:1 shall be notified to the GATT Council by the party which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request.

4. In cases of urgency, including those which concern perishable goods en route, parties shall enter into consultations within a period of no more than ten days from the date of the request. If the consultations have failed to settle the dispute within a period of thirty days after the request, the complaining party may request the establishment of a panel or a working party.

2.j Trade Negotiations Committee Meeting at Ministerial Level, Montreal, December 1988 *(continued)*

D. Good Offices, Conciliation, Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree. They may be requested at any time by any party to a dispute. They may begin at any time and be terminated at any time. Once terminated, the complaining party can then proceed with a request for the establishment of a panel or a working party under Article XXIII:2. When good offices, conciliation or mediation are entered into within sixty days of a request for consultations, the complaining party must allow a period of sixty days from the date of the request for consultations before requesting the establishment of a panel or working party. The complaining party may request a panel or a working party during the sixty days if the parties to the dispute jointly consider that the good offices, conciliation or mediation process has failed to settle the dispute.

2. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the panel or working party process proceeds.

3. The Director-General may, acting in an ex officio capacity, offer his good offices, conciliation or mediation with the view to assisting contracting parties to settle a dispute.

E. Arbitration

1. Expeditious arbitration within GATT as an alternative means of dispute settlement can facilitate the solution of certain disputes that concern issues that are clearly defined by both parties.

2. Resort to arbitration shall be subject to mutual agreement of the parties which shall agree on the procedures to be followed. Agreements to resort to arbitration shall be notified to all GATT contracting parties sufficiently in advance of the actual commencement of the arbitration process.

3. Other contracting parties may become party to an arbitration proceeding upon the agreement of the parties which have agreed to have recourse to arbitration. The parties to the proceeding shall agree to abide by the arbitration award.

F. Panel and Working Party Procedures

(a) Establishment of a Panel or a Working Party

The request for a panel or a working party shall be made in writing. It shall indicate whether consultations were held, and provide a brief summary of the factual and legal basis of the complaint sufficient to present the problem clearly. In case the applicant requests the establishment of a panel or a working party

2.j Trade Negotiations Committee Meeting at Ministerial Level, Montreal, December 1988 *(continued)*

with other than standard terms of reference, the written request shall include the proposed text of special terms of reference. If the complaining party so requests, a decision to establish a panel or working party shall be taken at the latest at the Council meeting following that at which the request first appeared as an item on the Council's regular agenda, unless at that meeting the Council decides otherwise.*

(b) Standard Terms of Reference

1. Panels shall have the following terms of reference unless the parties to the dispute agree otherwise within twenty days from the establishment of the panel:

> "To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by (name of contracting party) in document L/... and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2".

2. In establishing a panel, the Council may authorize its Chairman to draw up the terms of reference of the panel in consultation with the parties subject to the provisions of the preceding paragraph. The terms of reference thus drawn up shall be circulated to all contracting parties. If other than standard terms of reference are agreed upon, any contracting party may raise any point relating thereto in the Council.

(c) Composition of Panels

1. Contracting parties shall undertake, as a general rule, to permit their representatives to serve as panel members.

2. Panels shall be composed of well-qualified governmental and/or non-governmental individuals.

3. The roster of non-governmental panelists shall be expanded and improved. To this end, contracting parties may nominate individuals to serve on panels and shall provide relevant information on their nominee's knowledge of international trade and of the GATT.

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*References to the Council, made in this paragraph as well as in the following paragraphs, are without prejudice to the competence of the CONTRACTING PARTIES, for which the Council is empowered to act in accordance with normal GATT practice (BISD 26S/215).

2.j Trade Negotiations Committee Meeting at Ministerial Level, Montreal, December 1988 *(continued)*

4. Panels shall be composed of three members unless the parties to the dispute agree, within ten days from the establishment of the panel, to a panel composed of five members.

5. If there is no agreement on the members within twenty days from the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the Council, shall form the panel by appointing the panelists whom he considers most appropriate, after consulting both parties. The Director-General shall inform the contracting parties of the composition of the panel thus formed no later than ten days from the date he receives such a request.

(d) Procedures for Multiple Complainants

1. Where more than one contracting party requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all parties concerned. A single panel should be established to examine such complaints whenever feasible.

2. The single panel will organize its examination and present its findings to the Council so that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel will submit separate reports on the dispute concerned. The written submissions by each of the complainants will be made available to the other complainants, and each complainant will have the right to be present when one of the other complainants presents its view to the panel.

3. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as panelists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonized.

(e) Third Contracting Parties

1. The interests of the parties to a dispute and those of other contracting parties shall be fully taken into account during the panel process.

2. Any third contracting party having a substantial interest in a matter before a panel, and having notified this to the Council, shall have an opportunity to be heard by the panel and to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report.

3. At the request of the third contracting party, the panel may grant the third contracting party access to the written submissions to

2.j Trade Negotiations Committee Meeting at Ministerial Level, Montreal, December 1988 *(continued)*

the panel by those parties to the dispute which have agreed to the disclosure of their respective submission to the third contracting party.

(f) Time Devoted to Various Phases of a Panel

1. Panel procedures should provide sufficient flexibility so as to ensure high-quality panel reports, while not unduly delaying the panel process.

2. Panels shall follow the Suggested Working Procedures found in the July 1985 note of the Office of Legal Affairs unless the members of the panel agree otherwise after consulting the parties to the dispute. After consulting the parties, the panel members shall, as soon as practicable and whenever possible within one week after the composition and terms of reference of the panel have been agreed upon, fix the timetable for the panel process at least until its first substantive meeting.

3. In determining the timetable for the panel process, the panel shall provide sufficient time for the parties to the dispute to prepare their submissions.

4. Each party to the dispute shall deposit its written submissions with the secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to in the second paragraph of this section and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously.

5. In order to make the procedures more efficient, the period in which the panel shall conduct its examination, from the time the composition and terms of reference of the panel have been agreed upon to the time when the final report is provided to the parties to the dispute, shall, as a general rule, not exceed six months. In cases of urgency, including those relating to perishable goods, the panel shall aim to provide its report to the parties within three months.

6. When the panel considers that it cannot provide its report within six months, or within three months in cases of urgency, it shall inform the Council in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case should the period from the establishment of the panel to the submission of the report to the contracting parties exceed nine months.

2.j Trade Negotiations Committee Meeting at Ministerial Level, Montreal, December 1988 *(continued)*

7. In the context of consultations involving a measure taken by a developing contracting party, the parties may agree to extend the periods established in paragraphs 2 and 4 of Section C. If, after the relevant period has elapsed, the parties cannot agree that the consultations have concluded, the Chairman of the Council shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing contracting party, the panel shall accord sufficient time for the developing contracting party to prepare and present its argumentation. The provisions of paragraph 4 of Section G are not affected by any action pursuant to this paragraph.

G. Adoption of Panel Reports

1. In order to provide sufficient time for the members of the Council to consider panel reports, the reports shall not be considered for adoption by the Council until thirty days after they have been issued to the contracting parties.

2. Contracting parties having objections to panel reports shall give written reasons to explain their objections for circulation at least ten days prior to the Council meeting at which the panel report will be considered.

3. The parties to a dispute shall have the right to participate fully in the consideration of the panel report by the Council, and their views shall be fully recorded. The practice of adopting panel reports by consensus shall be continued, without prejudice to the GATT provisions on decision-making which remain applicable. However, the delaying of the process of dispute settlement shall be avoided.

4. The period from the request under Article XXII:1 or Article XXIII:1 until the Council takes a decision on the panel report shall not, unless agreed to by the parties, exceed fifteen months. The provisions of this paragraph shall not affect the provisions of paragraph 6 of Section F(f).

H. Technical Assistance

1. While the secretariat assists contracting parties in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing contracting parties. To this end, the secretariat shall make available a qualified legal expert within the Technical Co-operation Division to any developing contracting party which so requests. This expert shall assist the developing contracting party in a manner ensuring the continued impartiality of the secretariat.

2.j Trade Negotiations Committee Meeting at Ministerial Level, Montreal, December 1988 *(continued)*

2. The secretariat shall conduct special training courses for interested contracting parties concerning GATT dispute settlement procedures and practices so as to enable contracting parties' experts to be better informed in this regard.

I. Surveillance of Implementation of Recommendations and Rulings

1. Prompt compliance with recommendations or rulings of the CONTRACTING PARTIES under Article XXIII is essential in order to ensure effective resolution of disputes to the benefit of all contracting parties.

2. The contracting parties concerned shall inform the Council of its intentions in respect of implementation of the recommendations or rulings. If it is impracticable to comply immediately with the recommendations or rulings, the contracting party concerned shall have a reasonable period of time in which to do so.

3. The Council shall monitor the implementation of recommendations or rulings adopted under Article XXIII:2. The issue of implementation of the recommendations or rulings may be raised at the Council by any contracting party at any time following their adoption. Unless the Council decides otherwise, the issue of implementation of the recommendations or rulings shall be on the agenda of the Council meeting after six months following their adoption and shall remain on the Council's agenda until the issue is resolved. At least ten days prior to each such Council meeting, the contracting party concerned shall provide the Council with a status report in writing of its progress in the implementation of the panel recommendations or rulings.

4. In cases brought by developing contracting parties, the Council shall consider what further action it might take which would be appropriate to the circumstances, in conformity with paragraphs 21 and 23 of the 1979 Understanding on Dispute Settlement.

Source: Document MTN.TNC/7(MIN) of 9 December 1988.

2.k Improvements to the GATT Dispute Settlement Rules and Procedures. Decision of 12 April 1989

GENERAL AGREEMENT ON

TARIFFS AND TRADE

L/6489
13 April 1989
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IMPROVEMENTS TO THE GATT DISPUTE SETTLEMENT RULES AND PROCEDURES

Decision of 12 April 1989

Following the meetings of the Trade Negotiations Committee at Ministerial level in December 1988 and at the level of high officials in April 1989, the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade

Approve the improvements of the GATT dispute settlement rules and procedures set out below and their application on the basis set out in this Decision:

A. General Provisions

1. Contracting parties recognize that the dispute settlement system of GATT serves to preserve the rights and obligations of contracting parties under the General Agreement and to clarify the existing provisions of the General Agreement. It is a central element in providing security and predictability to the multilateral trading system.

2. Contracting parties agree that all solutions to matters formally raised under the GATT dispute settlement system under Articles XXII, XXIII and arbitration awards shall be consistent with the General Agreement and shall not nullify or impair benefits accruing to any contracting party under the General Agreement, nor impede the attainment of any objective of the General Agreement.

3. Contracting parties agree that the existing rules and procedures of the GATT in the field of dispute settlement shall continue. It is further agreed that the improvements set out below, which aim to ensure prompt and effective resolution of disputes to the benefit of all contracting parties, shall be applied on a trial basis from 1 May 1989 to the end of the Uruguay Round in respect of complaints brought during that period under Article XXII or XXIII; it is also agreed to keep the application of these improvements under review during the remainder of the Round and to decide on their adoption before the end of the Round; to continue negotiations with the aim of further improving and strengthening the GATT dispute settlement system taking into account the experience gained in the application of these improvements.

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2.k Improvements to the GATT Dispute Settlement Rules and Procedures. Decision of 12 April 1989 *(continued)*

4. All the points set out in this Decision shall be applied without prejudice to any provision on special and differential treatment for developing contracting parties in the existing instruments on dispute settlement including the CONTRACTING PARTIES' Decision of 5 April 1966 (BISD 14S/18).

B. Notification

Mutually agreed solutions to matters formally raised under GATT Articles XXII and XXIII, as well as arbitration awards within GATT, must be notified to the Council where any contracting party may raise any point relating thereto.

C. Consultations

1. If a request is made under Article XXII:1 or XXIII:1, the contracting party to which the request is made shall, unless otherwise mutually agreed, reply to the request within ten days after its receipt and shall enter into consultations in good faith within a period of no more than thirty days from the date of the request, with a view to reaching a mutually satisfactory solution. If the contracting party does not respond within ten days, or does not enter into consultations within a period of no more than thirty days, or a period otherwise mutually agreed, from the date of the request, then the contracting party that requested the holding of consultations may proceed directly to request the establishment of a panel or a working party.

2. If the consultations under Article XXII:1 or XXIII:1 fail to settle a dispute within sixty days after the request for consultations, the complaining party may request the establishment of a panel or a working party under Article XXIII:2. The complaining party may request a panel or a working party during the sixty-day period if the parties jointly consider that consultations have failed to settle the dispute.

3. Requests for consultations under Article XXII:1 or XXIII:1 shall be notified to the Council by the party which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request.

4. In cases of urgency, including those which concern perishable goods en route, parties shall enter into consultations within a period of no more than ten days from the date of the request. If the consultations have failed to settle the dispute within a period of thirty days after the request, the complaining party may request the establishment of a panel or a working party.

2.k Improvements to the GATT Dispute Settlement Rules and Procedures. Decision of 12 April 1989 *(continued)*

D. Good Offices, Conciliation, Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree. They may be requested at any time by any party to a dispute. They may begin at any time and be terminated at any time. Once terminated, the complaining party can then proceed with a request for the establishment of a panel or a working party under Article XXIII:2. When good offices, conciliation or mediation are entered into within sixty days of a request for consultations, the complaining party must allow a period of sixty days from the date of the request for consultations before requesting the establishment of a panel or working party. The complaining party may request a panel or a working party during the sixty days if the parties to the dispute jointly consider that the good offices, conciliation or mediation process has failed to settle the dispute.

2. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the panel or working party process proceeds.

3. The Director-General may, acting in an ex officio capacity, offer his good offices, conciliation or mediation with the view to assisting contracting parties to settle a dispute.

E. Arbitration

1. Expeditious arbitration within GATT as an alternative means of dispute settlement can facilitate the solution of certain disputes that concern issues that are clearly defined by both parties.

2. Resort to arbitration shall be subject to mutual agreement of the parties which shall agree on the procedures to be followed. Agreements to resort to arbitration shall be notified to all contracting parties sufficiently in advance of the actual commencement of the arbitration process.

3. Other contracting parties may become party to an arbitration proceeding upon the agreement of the parties which have agreed to have recourse to arbitration. The parties to the proceeding shall agree to abide by the arbitration award.

F. Panel and Working Party Procedures

(a) Establishment of a Panel or a Working Party

The request for a panel or a working party shall be made in writing. It shall indicate whether consultations were held, and provide a brief summary of the factual and legal basis of the complaint sufficient to present the problem clearly. In case the

2.k Improvements to the GATT Dispute Settlement Rules and Procedures. Decision of 12 April 1989 *(continued)*

applicant requests the establishment of a panel or a working party with other than standard terms of reference, the written request shall include the proposed text of special terms of reference. If the complaining party so requests, a decision to establish a panel or working party shall be taken at the latest at the Council meeting following that at which the request first appeared as an item on the Council's regular agenda, unless at that meeting the Council decides otherwise.*

(b) Standard Terms of Reference

1. Panels shall have the following terms of reference unless the parties to the dispute agree otherwise within twenty days from the establishment of the panel:

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by (name of contracting party) in document L/... and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2".

2. In establishing a panel, the Council may authorize its Chairman to draw up the terms of reference of the panel in consultation with the parties subject to the provisions of the preceding paragraph. The terms of reference thus drawn up shall be circulated to all contracting parties. If other than standard terms of reference are agreed upon, any contracting party may raise any point relating thereto in the Council.

(c) Composition of Panels

1. Contracting parties shall undertake, as a general rule, to permit their representatives to serve as panel members.

2. Panels shall be composed of well-qualified governmental and/or non-governmental individuals.

3. The roster of non-governmental panelists shall be expanded and improved. To this end, contracting parties may nominate individuals to serve on panels and shall provide relevant information on their nominee's knowledge of international trade and of the GATT.

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*References to the Council, made in this paragraph as well as in the following paragraphs, are without prejudice to the competence of the CONTRACTING PARTIES, for which the Council is empowered to act in accordance with normal GATT practice (BISD 26S/215).

2.k Improvements to the GATT Dispute Settlement Rules and Procedures. Decision of 12 April 1989 *(continued)*

4. Panels shall be composed of three members unless the parties to the dispute agree, within ten days from the establishment of the panel, to a panel composed of five members.

5. If there is no agreement on the members within twenty days from the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the Council, shall form the panel by appointing the panelists whom he considers most appropriate, after consulting both parties. The Director-General shall inform the contracting parties of the composition of the panel thus formed no later than ten days from the date he receives such a request.

(d) Procedures for Multiple Complainants

1. Where more than one contracting party requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all parties concerned. A single panel should be established to examine such complaints whenever feasible.

2. The single panel will organize its examination and present its findings to the Council so that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel will submit separate reports on the dispute concerned. The written submissions by each of the complainants will be made available to the other complainants, and each complainant will have the right to be present when one of the other complainants presents its view to the panel.

3. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as panelists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonized.

(e) Third Contracting Parties

1. The interests of the parties to a dispute and those of other contracting parties shall be fully taken into account during the panel process.

2. Any third contracting party having a substantial interest in a matter before a panel, and having notified this to the Council, shall have an opportunity to be heard by the panel and to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report.

3. At the request of the third contracting party, the panel may grant the third contracting party access to the written submissions to the panel by those parties to the dispute which have agreed to the disclosure of their respective submission to the third contracting party.

2.k Improvements to the GATT Dispute Settlement Rules and Procedures. Decision of 12 April 1989 *(continued)*

(f) Time Devoted to Various Phases of a Panel

1. Panel procedures should provide sufficient flexibility so as to ensure high-quality panel reports, while not unduly delaying the panel process.

2. Panels shall follow the Suggested Working Procedures found in the July 1985 note of the Office of Legal Affairs unless the members of the panel agree otherwise after consulting the parties to the dispute. After consulting the parties, the panel members shall, as soon as practicable and whenever possible within one week after the composition and terms of reference of the panel have been agreed upon, fix the timetable for the panel process at least until its first substantive meeting.

3. In determining the timetable for the panel process, the panel shall provide sufficient time for the parties to the dispute to prepare their submissions.

4. Each party to the dispute shall deposit its written submissions with the Secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to in the second paragraph of this section and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously.

5. In order to make the procedures more efficient, the period in which the panel shall conduct its examination, from the time the composition and terms of reference of the panel have been agreed upon to the time when the final report is provided to the parties to the dispute, shall, as a general rule, not exceed six months. In cases of urgency, including those relating to perishable goods, the panel shall aim to provide its report to the parties within three months.

6. When the panel considers that it cannot provide its report within six months, or within three months in cases of urgency, it shall inform the Council in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case should the period from the establishment of the panel to the submission of the report to the contracting parties exceed nine months.

2.k Improvements to the GATT Dispute Settlement Rules and Procedures. Decision of 12 April 1989 *(continued)*

7. In the context of consultations involving a measure taken by a developing contracting party, the parties may agree to extend the periods established in paragraphs 2 and 4 of Section C. If, after the relevant period has elapsed, the parties cannot agree that the consultations have concluded, the Chairman of the Council shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing contracting party, the panel shall accord sufficient time for the developing contracting party to prepare and present its argumentation. The provisions of paragraph 4 of Section G are not affected by any action pursuant to this paragraph.

G. Adoption of Panel Reports

1. In order to provide sufficient time for the members of the Council to consider panel reports, the reports shall not be considered for adoption by the Council until thirty days after they have been issued to the contracting parties.

2. Contracting parties having objections to panel reports shall give written reasons to explain their objections for circulation at least ten days prior to the Council meeting at which the panel report will be considered.

3. The parties to a dispute shall have the right to participate fully in the consideration of the panel report by the Council, and their views shall be fully recorded. The practice of adopting panel reports by consensus shall be continued, without prejudice to the GATT provisions on decision-making which remain applicable. However, the delaying of the process of dispute settlement shall be avoided.

4. The period from the request under Article XXII:1 or Article XXIII:1 until the Council takes a decision on the panel report shall not, unless agreed to by the parties, exceed fifteen months. The provisions of this paragraph shall not affect the provisions of paragraph 6 of Section F(f).

H. Technical Assistance

1. While the Secretariat assists contracting parties in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing contracting parties. To this end, the Secretariat shall make available a qualified legal expert within the Technical Co-operation Division to any developing contracting party which so requests. This expert shall assist the developing contracting party in a manner ensuring the continued impartiality of the Secretariat.

2.k Improvements to the GATT Dispute Settlement Rules and Procedures. Decision of 12 April 1989 *(continued)*

2. The Secretariat shall conduct special training courses for interested contracting parties concerning GATT dispute settlement procedures and practices so as to enable contracting parties' experts to be better informed in this regard.

I. Surveillance of Implementation of Recommendations and Rulings

1. Prompt compliance with recommendations or rulings of the CONTRACTING PARTIES under Article XXIII is essential in order to ensure effective resolution of disputes to the benefit of all contracting parties.

2. The contracting party concerned shall inform the Council of its intentions in respect of implementation of the recommendations or rulings. If it is impracticable to comply immediately with the recommendations or rulings, the contracting party concerned shall have a reasonable period of time in which to do so.

3. The Council shall monitor the implementation of recommendations or rulings adopted under Article XXIII:2. The issue of implementation of the recommendations or rulings may be raised at the Council by any contracting party at any time following their adoption. Unless the Council decides otherwise, the issue of implementation of the recommendations or rulings shall be on the agenda of the Council meeting after six months following their adoption and shall remain on the Council's agenda until the issue is resolved. At least ten days prior to each such Council meeting, the contracting party concerned shall provide the Council with a status report in writing of its progress in the implementation of the panel recommendations or rulings.

4. In cases brought by developing contracting parties, the Council shall consider what further action it might take which would be appropriate to the circumstances, in conformity with paragraphs 21 and 23 of the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/214).

Source: Document L/6489 of 13 April 1989, BISD 36S/61.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision

MULTILATERAL TRADE NEGOTIATIONS THE URUGUAY ROUND

RESTRICTED

MTN.GNG/NG13/W/4/Rev.1
10 November 1989

Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on Dispute Settlement

GATT DISPUTE SETTLEMENT SYSTEM

Note by the Secretariat

Revision

At the meeting of the Negotiating Group on Dispute Settlement on 6 April 1987, the secretariat was requested to prepare a factual background paper in order to assist the Group in its analytical assessment of the functioning of the dispute settlement process (MTN.GNG/NG13/1). It was suggested that such a background paper should include: a compilation of all GATT and Code provisions and procedures relating to dispute settlement; the standard internal procedures customarily adopted by panels; an updating of the tabular list of GATT disputes contained in the Analytical Index; a factual analysis of the various dispute cases brought before the GATT Council and MTN Committees; and an assessment of the causes of unresolved disputes, especially after 1979. The relevant texts were compiled and the requested information set out in MTN.GNG/NG13/W/4 of 10 June 1987.

This note revises MTN.GNG/NG13/W/4 by incorporating the text of the Decision by CONTRACTING PARTIES of 12 April 1989 on "Improvements to the GATT Dispute Settlement Rules and Procedures"; a revised "Note by the Secretariat for the attention of newly established Panels"; updates of the tabular lists of GATT Article XXIII complaints and recourses to dispute settlement under the Tokyo Round Agreements. Parts V and VI have not been modified.

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GATT SECRETARIAT

UR-89-0351

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I. COMPILATION OF TEXTS

1. Introductory note

1. There exists no official classification of a "GATT dispute" or a "GATT dispute settlement procedure". The General Agreement contains some thirty provisions requiring contracting parties to hold bilateral or multilateral consultations on restrictive trade measures in specific instances (e.g. Articles VI:7, XII:4, XVI:1, XIX:2, XXII, XXIII:1, XXVIII), or providing for other multilateral procedures that can be used for the settlement of disputes (e.g. Articles XII:4, XIX:3, XXIII:2, XXIV:7, 10, XXV:5, XXVIII:4). Since 1948, more than 100 formal complaints under the central dispute settlement provision of GATT Article XXIII were notified to GATT. But these formal Article XXIII complaints are only the tip of the iceberg. A large number of additional complaints were dealt with in consultations under GATT Articles XXII or XXIII without notification to GATT. Since 1980, some twenty formal complaints have been submitted under the dispute settlement provisions of the various MTN Agreements concluded at the end of the GATT Tokyo Round in 1979.

2. GATT Article XXII

2.1 Text of Article XXII (BISD IV/39)

Consultation

1. Each contracting party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as may be made by another contracting party with respect to any matter affecting the operation of this Agreement.

2. The CONTRACTING PARTIES may, at the request of a contracting party, consult with any contracting party or parties in respect of any matter for which it has not been possible to find a satisfactory solution through consultation under paragraph 1.

2.2 Procedures adopted in respect of Article XXII (BISD 7S/24)

PROCEDURES UNDER ARTICLE XXII ON QUESTIONS AFFECTING THE INTERESTS OF A NUMBER OF CONTRACTING PARTIES

Procedures adopted on 10 November 1958

1. Any contracting party seeking a consultation under Article XXII shall, at the same time, so inform the Executive Secretary for the information of all contracting parties.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

2. Any other contracting party asserting a substantial trade interest in the matter shall, within forty-five days of the notification by the Executive Secretary of the request for consultation, advise the consulting countries and the Executive Secretary of its desire to be joined in the consultation.

3. Such contracting party shall be joined in the consultation provided that the contracting party or parties to which the request for consultation is addressed agree that the claim of substantial interest is well-founded; in that event they shall so inform the contracting parties concerned and tne Executive Secretary.

4. If the claim to be joined in the consultation is not accepted. the applicant contracting party shall be free to refer its claim to the CONTRACTING PARTIES.

5. At the close of the consultation, the consulting countries shall advise the Executive Secretary for the information of all contracting parties of the outcome.

6. The Executive Secretary shall provide such assistance in these consultations as the parties may request.

3. GATT Article XXIII

3.1 Text of Article XXIII (BISD IV/39)

Nullification or Impairment

1. If any contracting party should consider that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired or that the attainment of any objective of the Agreement is being impeded as the result of:

(a) the failure of another contracting party to carry out its obligations under this Agreement, or

(b) the application by another contracting party of any measure, whether or not it conflicts with the provisions of this Agreement, or

(c) the existence of any other situation,

the contracting party may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other contracting party or parties which it considers to be concerned. Any contracting party thus approached shall give sympathetic consideration to the representations or proposals made to it.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

2. If no satisfactory adjustment is effected between the contracting parties concerned within a reasonable time, or if the difficulty is of the type described in paragraph 1(c) of this Article, the matter may be referred to the CONTRACTING PARTIES. The CONTRACTING PARTIES shall promptly investigate any matter so referred to them and shall make appropriate recommendations to the contracting parties which they consider to be concerned, or give a ruling on the matter, as appropriate. The CONTRACTING PARTIES may consult with contracting parties, with the Economic and Social Council of the United Nations and with any appropriate intergovernmental organization in cases where they consider such consultation necessary. If the CONTRACTING PARTIES consider that the circumstances are serious enough to justify such action, they may authorize a contracting party or parties to suspend the application to any other contracting party or parties of such concessions or other obligations under this Agreement as they determine to be appropriate in the circumstances. If the application to any contracting party of any concession or other obligation is in fact suspended, that contracting party shall then be free, not later than sixty days after such action is taken, to give written notice to the Executive Secretary[1] to the CONTRACTING PARTIES of its intention to withdraw from this Agreement and such withdrawal shall take effect upon the sixtieth day following the day on which such notice is received by him.

3.2 Procedures under Article XXIII (BISD 14S/18)

PROCEDURES UNDER ARTICLE XXIII

Decision of 5 April 1966[2]

The CONTRACTING PARTIES,

Recognizing that the prompt settlement of situations in which a contracting party considers that any benefits accruing to it directly or indirectly from the General Agreement are being impaired by measures taken by another contracting party, is essential to the effective functioning of the General Agreement and the maintenance of a proper balance between the rights and obligations of all contracting parties;

Recognizing further that the existence of such a situation can cause severe damage to the trade and economic development of the less-developed contracting parties; and

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[1] See Preface to BISD Vol. IV

[2] The Decision is referred to in paragraphs 41-47 of the Report of the Committee on Trade and Development. See pages 139 and 140 of BISD, Fourteenth Supplement.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Affirming their resolve to facilitate the solution of such situations while taking fully into account the need for safeguarding both the present and potential trade of less-developed contracting parties affected by such measures;

Decide that:

1. If consultations between a less-developed contracting party and a developed contracting party in regard to any matter falling under paragraph 1 of Article XXIII do not lead to a satisfactory settlement, the less-developed contracting party complaining of the measure may refer the matter which is the subject of consultations to the Director-General so that, acting in an ex officio capacity, he may use his good offices with a view to facilitating a solution.

2. To this effect the contracting parties concerned shall, at the request of the Director-General, promptly furnish all relevant information.

3. On receipt of this information, the Director-General shall consult with the contracting parties concerned and with such other contracting parties or intergovernmental organizations as he considers appropriate with a view to promoting a mutually acceptable solution.

4. After a period of two months from the commencement of the consultations referred to in paragraph 3 above, if no mutually satisfactory solution has been reached, the Director-General shall, at the request of one of the contracting parties concerned, bring the matter to the attention of the CONTRACTING PARTIES or the Council, to whom he shall submit a report on the action taken by him, together with all background information.

5. Upon receipt of the report, the CONTRACTING PARTIES or the Council shall forthwith appoint a panel of experts to examine the matter with a view to recommending appropriate solutions. The members of the panel shall act in a personal capacity and shall be appointed in consultation with, and with the approval of, the contracting parties concerned.

6. In conducting its examination and having before it all the background information, the panel shall take due account of all the circumstances and considerations relating to the application of the measures complained of, and their impact on the trade and economic development of affected contracting parties.

7. The panel shall, within a period of sixty days from the date the matter was referred to it, submit its findings and recommendations to the CONTRACTING PARTIES or to the Council, for consideration and decision. Where the matter is referred to the Council, it may, in accordance with Rule 8 of the Intersessional Procedures adopted by the CONTRACTING PARTIES at their thirteenth session[1], address its recommendations directly to the interested contracting parties and concurrently report to the CONTRACTING PARTIES.

[1] BISD, Seventh Supplement, page 7

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

8. Within a period of ninety days from the date of the decision of the CONTRACTING PARTIES or the Council, the contracting party to which a recommendation is directed shall report to the CONTRACTING PARTIES or the Council on the action taken by it in pursuance of the decision.

9. If on examination of this report it is found that a contracting party to which a recommendation has been directed has not complied in full with the relevant recommendation of the CONTRACTING PARTIES or the Council, and that any benefit accruing directly or indirectly under the General Agreement continues in consequence to be nullified or impaired, and that the circumstances are serious enough to justify such action, the CONTRACTING PARTIES may authorize the affected contracting party or parties to suspend, in regard to the contracting party causing the damage, application of any concession or any other obligation under the General Agreement whose suspension is considered warranted, taking account of the circumstances.

10. In the event that a recommendation to a developed country by the CONTRACTING PARTIES is not applied within the time-limit prescribed in paragraph 8, the CONTRACTING PARTIES shall consider what measures, further to those undertaken under paragraph 9, should be taken to resolve the matter.

11. If consultations, held under paragraph 2 of Article XXXVII, relate to restrictions for which there is no authority under any provisions of the General Agreement, any of the parties to the consultations may, in the absence of a satisfactory solution, request that consultations be carried out by the CONTRACTING PARTIES pursuant to paragraph 2 of Article XXIII and in accordance with the procedures set out in the present decision, it being understood that a consultation held under paragraph 2 of Article XXXVII in respect of such restrictions will be considered by the CONTRACTING PARTIES as fulfilling the conditions of paragraph 1 of Article XXIII if the parties to the consultations so agree.

4. Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210)

UNDERSTANDING REGARDING NOTIFICATION,
CONSULTATION, DISPUTE SETTLEMENT AND SURVEILLANCE

Adopted on 28 November 1979
(L/4907)

1. The CONTRACTING PARTIES reaffirm their adherence to the basic GATT mechanism for the management of disputes based on Articles XXII and XXIII.[1]

[1] It is noted that Article XXV may, as recognized by the CONTRACTING PARTIES, inter alia, when they adopted the report of the Working Party on particular difficulties connected with trade in primary products (L/930), also afford an appropriate avenue for consultation and dispute settlement in certain circumstances.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

"ith a view to improving and refining the GATT mechanism, the CONTRACTING ARTIES agree as follows:

Notification

2. Contracting parties reaffirm their commitment to existing obligations under the General Agreement regarding publication and notification.

3. Contracting parties moreover undertake, to the maximum extent possible, to notify the CONTRACTING PARTIES of their adoption of trade measures affecting the operation of the General Agreement, it being understood that such notification would of itself be without prejudice to views on the consistency of measures with or their relevance to rights and obligations under the General Agreement. Contracting parties should endeavour to notify such measures in advance of implementation. In other cases, where prior notification has not been possible, such measures should be notified promptly ex post facto. Contracting parties which have reason to believe that such trade measures have been adopted by another contracting party may seek information on such measures bilaterally, from the contracting party concerned.

Consultations

4. Contracting parties reaffirm their resolve to strengthen and improve the effectiveness of consultative procedures employed by contracting parties. In that connection, they undertake to respond to requests for consultations promptly and to attempt to conclude consultations expeditiously, with a view to reaching mutually satisfactory conclusions. Any requests for consultations should include the reasons therefor.

5. During consultations, contracting parties should give special attention to the particular problems and interests of less-developed contracting parties.

6. Contracting parties should attempt to obtain satisfactory adjustment of the matter in accordance with the provisions of Article XXIII:1 before resorting to Article XXIII:2.

Dispute settlement

7. The CONTRACTING PARTIES agree that the customary practice of the GATT in the field of dispute settlement, described in the Annex, should be continued in the future, with the improvements set out below. They recognize that the efficient functioning of the system depends on their will to abide by the present understanding. The CONTRACTING PARTIES reaffirm that the customary practice includes the procedures for the settlement of disputes between developed and less-developed countries adopted by the CONTRACTING PARTIES in 1966[1] and that these remain available to less-developed contracting parties wishing to use them.

[1] BISD 14S/18

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

8. If a dispute is not resolved through consultations the contracting parties concerned may request an appropriate body or individual to use their good offices with a view to the conciliation of the outstanding differences between the parties. If the unresolved dispute is one in which a less-developed contracting party has brought a complaint against a developed contracting party, the less-developed contracting party may request the good offices of the Director-General who, in carrying out his tasks, may consult with the Chairman of the CONTRACTING PARTIES and the Chairman of the Council.

9. It is understood that requests for conciliation and the use of the dispute settlement procedures of Article XXIII:2 should not be intended or considered as contentious acts and that, if disputes arise, all contracting parties will engage in these procedures in good faith in an effort to resolve the disputes. It is also understood that complaints and counter-complaints in regard to distinct matters should not be linked.

10. It is agreed that if a contracting party invoking Article XXIII:2 requests the establishment of a panel to assist the CONTRACTING PARTIES to deal with the matter, the CONTRACTING PARTIES would decide on its establishment in accordance with standing practice. It is also agreed that the CONTRACTING PARTIES would similarly decide to establish a working party if this were requested by a contracting party invoking the Article. It is further agreed that such requests would be granted only after the contracting party concerned had had an opportunity to study the complaint and respond to it before the CONTRACTING PARTIES.

11. When a panel is set up, the Director-General, after securing the agreement of the contracting parties concerned, should propose the composition of the panel, of three or five members depending on the case, to the CONTRACTING PARTIES for approval. The members of a panel would preferably be governmental. It is understood that citizens of countries whose governments[1] are parties to the dispute would not be members of the panel concerned with that dispute. The panel should be constituted as promptly as possible and normally not later than thirty days from the decision by the CONTRACTING PARTIES.

12. The parties to the dispute would respond within a short period of time, i.e. seven working days, to nominations of panel members by the Director-General and would not oppose nominations except for compelling reasons.

13. In order to facilitate the constitution of panels, the Director-General should maintain an informal indicative list of governmental and non-governmental persons qualified in the fields of trade

[1] In the case customs unions or common markets are parties to a dispute, this provision applies to citizens of all member countries of the customs unions or common markets.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

relations, economic development, and other matters covered by the General Agreement, and who could be available for serving on panels. For this purpose, each contracting party would be invited to indicate at the beginning of every year to the Director-General the name of one or two persons who would be available for such work.[1]

14. Panel members would serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments would therefore not give them instructions nor seek to influence them as individuals with regard to matters before a panel. Panel members should be selected with a view to ensuring the independence of the members, a sufficiently diverse background and a wide spectrum of experience.[2]

15. Any contracting party having a substantial interest in the matter before a panel, and having notified this to the Council, should have an opportunity to be heard by the panel. Each panel should have the right to seek information and technical advice from any individual or body which it deems appropriate. However, before a panel seeks such information or advice from any individual or body within the jurisdiction of a State it shall inform the government of that State. Any contracting party should respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information which is provided should not be revealed without formal authorization from the contracting party providing the information.

16. The function of panels is to assist the CONTRACTING PARTIES in discharging their responsibilities under Article XXIII:2. Accordingly, a panel should make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the General Agreement and, if so requested by the CONTRACTING PARTIES, make such other findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2. In this connection, panels should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution.

17. Where the parties have failed to develop a mutually satisfactory solution, the panel should submit its findings in a written form. The report of a panel should normally set out the rationale behind any findings and recommendations that it makes. Where a bilateral settlement of the matter has been found, the report of the panel may be confined to a brief description of the case and to reporting that a solution has been reached.

18. To encourage development of mutually satisfactory solutions between the parties and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the parties concerned,

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[1] The coverage of travel expenses should be considered within the limits of budgetary possibilities.

[2] A statement is included in the Annex describing the current practice with respect to inclusion on panels of persons from developing countries.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the CONTRACTING PARTIES.

19. If a mutually satisfactory solution is developed by the parties to a dispute before a panel, any contracting party with an interest in the matter has a right to enquire about and be given appropriate information about that solution in so far as it relates to trade matters.

20. The time required by panels will vary with the particular case.[1] However, panels should aim to deliver their findings without undue delay, taking into account the obligation of the CONTRACTING PARTIES to ensure prompt settlement. In cases of urgency the panel would be called upon to deliver its findings within a period normally of three months from the time the panel was established.

21. Reports of panels and working parties should be given prompt consideration by the CONTRACTING PARTIES. The CONTRACTING PARTIES should take appropriate action on reports of panels and working parties within a reasonable period of time. If the case is one brought by a less-developed contracting party, such action should be taken in a specially convened meeting, if necessary. In such cases, in considering what appropriate action might be taken the CONTRACTING PARTIES shall take into account not only the trade coverage of measures complained of, but also their impact on the economy of less-developed contracting parties concerned.

22. The CONTRACTING PARTIES shall keep under surveillance any matter on which they have made recommendations or given rulings. If the CONTRACTING PARTIES' recommendations are not implemented within a reasonable period of time, the contracting party bringing the case may ask the CONTRACTING PARTIES to make suitable efforts with a view to finding an appropriate solution.

23. If the matter is one which has been raised by a less-developed contracting party, the CONTRACTING PARTIES shall consider what further action they might take which would be appropriate to the circumstances.

Surveillance

24. The CONTRACTING PARTIES agree to conduct a regular and systematic review of developments in the trading system. Particular attention would be paid to developments which affect rights and obligations under the GATT, to matters affecting the interests of less-developed contracting parties, to trade measures notified in accordance with this understanding and to measures which have been subject to consultation, conciliation or dispute settlement procedures laid down in this understanding.

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[1] An explanation is included in the Annex that "in most cases the proceedings of the panels have been completed within a reasonable period of time, extending from three to nine months".

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Technical assistance

25. The technical assistance services of the GATT secretariat shall, at the request of a less-developed contracting party, assist it in connection with matters dealt with in this understanding.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

ANNEX

Agreed Description of the Customary Practice of the GATT in the Field of Dispute Settlement (Article XXIII:2)

1. Any dispute which has not been settled bilaterally under the relevant provisions of the General Agreement may be referred to the CONTRACTING PARTIES[1] which are obliged, pursuant to Article XXIII:2, to investigate matters submitted to them and make appropriate recommendations or give a ruling on the matter as appropriate. Article XXIII:2 does not indicate whether disputes should be handled by a working party or by a panel.[2]

2. The CONTRACTING PARTIES adopted in 1966 a decision establishing the procedure to be followed for Article XXIII consultations between developed and less-developed contracting parties.[3] This procedure provides, inter alia, for the Director-General to employ his good offices with a view to facilitating a solution, for setting up a panel with the task of examining the problem in order to recommend appropriate solutions, and for time-limits for the execution of the different parts of this procedure.

3. The function of a panel has normally been to review the facts of a case and the applicability of GATT provisions and to arrive at an objective assessment of these matters. In this connection, panels have consulted regularly with the parties to the dispute and have given them adequate opportunity to develop a mutually satisfactory solution. Panels have taken appropriate account of the particular interests of developing countries. In cases of failure of the parties to reach a mutually satisfactory settlement, panels have normally given assistance to the CONTRACTING PARTIES in making recommendations or in giving rulings as envisaged in Article XXIII:2.

4. Before bringing a case, contracting parties have exercised their judgment as to whether action under Article XXIII:2 would be fruitful. Those cases which have come before the CONTRACTING PARTIES under this provision have, with few exceptions, been brought to a satisfactory

[1] The Council is empowered to act for the CONTRACTING PARTIES, in accordance with normal GATT practice.

[2] At the Review Session (1955) the proposal to institutionalize the procedures of panels was not adopted by CONTRACTING PARTIES mainly because they preferred to preserve the existing situation and not to establish judicial procedures which might put excessive strain on the GATT.

[3] BISD 14S/18

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

conclusion. The aim of the CONTRACTING PARTIES has always been to secure a positive solution to a dispute. A solution mutually acceptable to the parties to a dispute is clearly to be preferred. In the absence of a mutually agreed solution, the first objective of the CONTRACTING PARTIES is usually to secure the withdrawal of the measures concerned if these are found to be inconsistent with the General Agreement. The provision of compensation should be resorted to only if the immediate withdrawal of the measure is impracticable and as a temporary measure pending the withdrawal of the measures which are inconsistent with the General Agreement. The last resort which Article XXIII provides to the country invoking this procedure is the possibility of suspending the application of concessions or other obligations on a discriminatory basis vis-à-vis the other contracting party, subject to authorization by the CONTRACTING PARTIES of such measures. Such action has only rarely been contemplated and cases taken under Article XXIII:2 have led to such action in only one case.

5. In practice, contracting parties have had recourse to Article XXIII only when in their view a benefit accruing to them under the General Agreement was being nullified or impaired. In cases where there is an infringement of the obligations assumed under the General Agreement, the action is considered prima facie to constitute a case of nullification or impairment. A prima facie case of nullification or impairment would ipso facto require consideration of whether the circumstances are serious enough to justify the authorization of suspension of concessions or obligations, if the contracting party bringing the complaint so requests. This means that there is normally a presumption that a breach of the rules has an adverse impact on other contracting parties, and in such cases, it is up to the contracting parties against whom the complaint has been brought to rebut the charge. Paragraph 1(b) permits recourse to Article XXIII if nullification or impairment results from measures taken by other contracting parties whether or not these conflict with the provisions of the General Agreement, and paragraph 1(c) if any other situation exists. If a contracting party bringing an Article XXIII case claims that measures which do not conflict with the provisions of the General Agreement have nullified or impaired benefits accruing to it under the General Agreement, it would be called upon to provide a detailed justification.

6. Concerning the customary elements of the procedures regarding working parties and panels, the following elements have to be noted:

(i) working parties are instituted by the Council upon the request of one or several contracting parties. The terms of reference of working parties are generally "to examine the matter in the light of the relevant provisions of the General Agreement and to report to the Council". Working parties set up their own working procedures. The practice for working parties has been to hold one or two meetings to examine the matter and a final meeting to discuss conclusions. Working parties are open to participation of any contracting party which has an interest in the matter.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Generally working parties consist of a number of delegations varying from about five to twenty according to the importance of the questions and the interests involved. The countries who are parties to the dispute are always members of the Working Party and have the same status as other delegations. The report of the Working Party represents the views of all its members and therefore records different views if necessary. Since the tendency is to strive for consensus, there is generally some measure of negotiation and compromise in the formulation of the Working Party's report. The Council adopts the report. The reports of working parties are advisory opinions on the basis of which the CONTRACTING PARTIES may take a final decision.

(ii) In the case of dispute, the CONTRACTING PARTIES have established panels (which have been called by different names) or working parties in order to assist them in examining questions raised under Article XXIII:2. Since 1952, panels have become the usual procedure. However, the Council has taken such decisions only after the party concerned has had an occasion to study the complaint and prepare its response before the Council. The terms of reference are discussed and approved by the Council. Normally, these terms of reference are "to examine the matter and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or rulings provided for in paragraph 2 of Article XXIII". When a contracting party having recourse to Article XXIII:2 raised questions relating to the suspension of concessions or other obligations, the terms of reference were to examine the matter in accordance with the provisions of Article XXIII:2. Members of the panel are usually selected from permanent delegations or, less frequently, from the national administrations in the capitals amongst delegates who participate in GATT activities on a regular basis. The practice has been to appoint a member or members from developing countries when a dispute is between a developing and a developed country.

(iii) Members of panels are expected to act impartially without instructions from their governments. In a few cases, in view of the nature and complexity of the matter, the parties concerned have agreed to designate non-government experts. Nominations are proposed to the parties concerned by the GATT secretariat. The composition of panels (three or five members depending on the case) has been agreed upon by the parties concerned and approved by the GATT Council. It is recognized that a broad spectrum of opinion has been beneficial in difficult cases, but that the number of panel members has sometimes delayed the composition of panels, and therefore the process of dispute settlement.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

(iv) Panels set up their own working procedures. The practice for the panels has been to hold two or three formal meetings with the parties concerned. The panel invited the parties to present their views either in writing and/or orally in the presence of each other. The panel can question both parties on any matter which it considers relevant to the dispute. Panels have also heard the views of any contracting party having a substantial interest in the matter, which is not directly party to the dispute, but which has expressed in the Council a desire to present its views. Written memoranda submitted to the panel have been considered confidential, but are made available to the parties to the dispute. Panels often consult with and seek information from any relevant source they deem appropriate and they sometimes consult experts to obtain their technical opinion on certain aspects of the matter. Panels may seek advice or assistance from the secretariat in its capacity as guardian of the General Agreement, especially on historical or procedural aspects. The secretariat provides the secretary and technical services for panels.

(v) Where the parties have failed to develop a mutually satisfactory solution, the panel has submitted its findings in a written form. Panel reports have normally set out findings of fact, the applicability of relevant provisions, and the basic rationale behind any findings and recommendations that it has made. Where a bilateral settlement of the matter has been found, the report of the panel has been confined to a brief description of the case and to reporting that a solution has been reached.

(vi) The reports of panels have been drafted in the absence of the parties in the light of the information and the statements made.

(vii) To encourage development of mutually satisfactory solutions between the parties and with a view to obtaining their comments, each panel has normally first submitted the descriptive part of its report to the parties concerned, and also their conclusions, or an outline thereof, a reasonable period of time before they have been circulated to the CONTRACTING PARTIES.

(viii) In accordance with their terms of reference established by the CONTRACTING PARTIES panels have expressed their views on whether an infringement of certain rules of the General Agreement arises out of the measure examined. Panels have also, if so requested by the CONTRACTING PARTIES, formulated draft recommendations addressed to the parties. In yet other cases panels were invited to give a technical opinion

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

on some precise aspect of the matter (e.g. on the modalities of a withdrawal or suspension in regard to the volume of trade involved). The opinions expressed by the panel members on the matters are anonymous and the panel deliberations are secret.

(ix) Although the CONTRACTING PARTIES have never established precise deadlines for the different phases of the procedure, probably because the matters submitted to panels differ as to their complexity and their urgency, in most cases the proceedings of the panels have been completed within a reasonable period of time, extending from three to nine months.

The 1966 decision by the CONTRACTING PARTIES referred to in paragraph 2 above lays down in its paragraph 7 that the Panel shall report within a period of sixty days from the date the matter was referred to it.

5. Ministerial Declaration adopted on 29 November 1982 (BISD 29S/9), section on "Dispute Settlement Procedures" (BISD 29S/13)

Dispute Settlement Procedures

The CONTRACTING PARTIES:

Agree that the Understanding on Notification, Consultation, Surveillance and Dispute Settlement negotiated during the Tokyo Round (hereinafter referred to as the "Understanding") provides the essential framework of procedures for the settlement of disputes among contracting parties and that no major change is required in this framework, but that there is scope for more effective use of the existing mechanism and for specific improvements in procedures to this end;

And agree further that:

(i) With reference to paragraph 8 of the Understanding, if a dispute is not resolved through consultations, any party to a dispute may, with the agreement of the other party, seek the good offices of the Director-General or of an individual or group of persons nominated by the Director-General. This conciliatory process would be carried out expeditiously, and the Director-General would inform the Council of the outcome of the conciliatory process. Conciliation proceedings, and in particular positions taken by the parties to the dispute during conciliation, shall be confidential, and without prejudice to the rights of either party in any further proceedings under Article XXIII:2. It would remain open at any time during any conciliatory process for either party to the dispute to refer the matter to the CONTRACTING PARTIES.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

(ii) In order to ensure more effective compliance with the provisions of paragraphs 11 and 12 of the Understanding, the Director-General shall inform the Council of any case in which it has not been found possible to meet the time-limits for the establishment of a panel.

(iii) With reference to paragraph 13 of the Understanding, contracting parties will co-operate effectively with the Director-General in making suitably qualified experts available to serve on panels. Where experts are not drawn from Geneva, any expenses, including travel and subsistence allowance, shall be met from the GATT budget.

(iv) The secretariat of GATT has the responsibility of assisting the panel, especially on the legal, historical and procedural aspects of the matters dealt with.

(v) The terms of reference of a panel should be formulated so as to permit a clear finding with respect to any contravention of GATT provisions and/or on the question of nullification and impairment of benefits. In terms of paragraph 16 of the Understanding, and after reviewing the facts of the case, the applicability of GATT provisions and the arguments advanced, the panel should come to such a finding. Where a finding establishing a contravention of GATT provisions or nullification and impairment is made, the panel should make such suggestions as appropriate for dealing with the matter as would assist the CONTRACTING PARTIES in making recommendations to the contracting parties which they consider to be concerned, or give a ruling on the matter, as appropriate.

(vi) Panels would aim to deliver their findings without undue delay, as provided in paragraph 20 of the Understanding. If a complete report cannot be made within the period foreseen in that paragraph, panels would be expected to so advise the Council and the report should be submitted as soon as possible thereafter.

(vii) Reports of panels should be given prompt consideration by the CONTRACTING PARTIES. Where a decision on the findings contained in a report calls for a ruling or recommendation by the Council, the Council may allow the contracting party concerned a reasonable specified time to indicate what action it proposes to take with a view to a satisfactory settlement of the matter, before making any recommendation or ruling on the basis of the report.

(viii) The recommendation or ruling made by the CONTRACTING PARTIES shall be aimed at achieving a satisfactory settlement of the

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

matter in accordance with GATT obligations. In furtherance of the provisions of paragraph 22 of the Understanding the Council shall periodically review the action taken pursuant to such recommendations. The contracting party to which such a recommendation has been addressed, shall report within a reasonable specified period on action taken or on its reasons for not implementing the recommendation or ruling by the CONTRACTING PARTIES. The contracting party bringing the case may also ask the CONTRACTING PARTIES to make suitable efforts with a view to finding an appropriate solution as provided in paragraph 22 of the Understanding.

(ix) The further action taken by the CONTRACTING PARTIES in the above circumstances might include a recommendation for compensatory adjustment with respect to other products or authorization for the suspension of such concessions or other obligations as foreseen in Article XXIII:2, as the CONTRACTING PARTIES may determine to be appropriate in the circumstances.

(x) The Parties to a dispute would fully participate in the consideration of the matter by the CONTRACTING PARTIES under paragraph (vii) above, including the consideration of any rulings or recommendations the CONTRACTING PARTIES might make pursuant to Article XXIII:2 of the General Agreement, and their views would be fully recorded. They would likewise participate and have their views recorded in the considerations of the further actions provided for under paragraphs (viii) and (ix) above. The CONTRACTING PARTIES reaffirmed that consensus will continue to be the traditional method of resolving disputes; however, they agreed that obstruction in the process of dispute settlement shall be avoided.[1] It is understood that decisions in this process cannot add to or diminish the rights and obligations provided in the General Agreement.

[1] This does not prejudice the provisions on decision making in the General Agreement.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

6. Dispute settlement procedures. Action taken on 30 November 1984 (BISD 31S/9)

Dispute Settlement Procedures

Fortieth Session of the CONTRACTING PARTIES

Action taken on 30 November 1984

I. The CONTRACTING PARTIES adopted the following proposal in L/5718/Rev.1:

At the 1982 Ministerial it was agreed that the Dispute Settlement "Understanding" provides the essential framework of procedures for the settlement of disputes among contracting parties and that no major change is required in this framework, but that there is scope for more effective use of the existing mechanism and for specific improvements in procedures to this end.

However, if improvement in the whole system is to be achieved, it is necessary not only to make specific procedural improvements, but also to obtain a clear cut understanding by and commitment from the CONTRACTING PARTIES (or Signatories to the Codes) with respect to the nature and time-frame of (a) the panel process; (b) the decision on the dispute matter to be taken by the CONTRACTING PARTIES (or the Code Committee) on the basis of the panel's report; and (c) the follow-up to be given to that decision by the parties to the dispute.

A number of procedural problems related to the panel process have been encountered which can be addressed within the existing framework. Such problems include the formation of panels in a timely manner, and the timely completion of panel work. Although the "Understanding" provides guidelines for these procedures (thirty days for the formation of a panel and three to nine months to complete the panel's work), experience has shown these time targets are seldom met. These are only a couple of difficulties related to the dispute settlement mechanism, so addressing them alone will not cure all its deficiencies. However, procedural improvements can lead to improvements in the quality of panel reports. Therefore, the CONTRACTING PARTIES agree that, as a first step, the following approach should be adopted, on a trial basis, for a period of one year in order to continue the process of improving the operation of the system.[1]

Formation of panels

1. Contracting parties should indicate to the Director-General the names of persons they think qualified to serve as panelists, who are not presently affiliated with national administrations but who have a high degree of knowledge of international trade and experience of the GATT.

[1] In November 1986, the GATT Council agreed to extend the list of non-governmental panelists in L/5906 for an additional year (C/M/204, p.27).

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

These names should be used to develop a short roster of non-governmental panelists to be agreed upon by the CONTRACTING PARTIES in consultation with the Director-General. The roster should be as representative as possible of contracting parties.

2. The Director-General should continue the practice of proposing panels composed preferably of governmental representatives but may also draw as necessary on persons on the approved roster. The parties should retain the ability to respond to the Director-General's proposal, but shall not oppose nominations except for compelling reasons.

3. In the event that panel composition cannot be agreed within thirty days after a matter is referred by the CONTRACTING PARTIES, the Director-General shall, at the request of either party and in consultation with the Chairman of the Council, complete the panel by appointing persons from the roster of non-governmental panelists to resolve the deadlock, after consulting both parties.

Completion of panel work

1. Panels should continue to set their own working procedures and, where possible, panels should provide the parties to the dispute at the outset with a proposed calendar for the panel's work.

2. Where written submissions are requested from the parties, panels should set precise deadlines, and the parties to a dispute should respect those deadlines.

II. The CONTRACTING PARTIES referred proposals by Canada (L/5720) and Nicaragua (L/5731) to the Council for any appropriate action.

7. Decision by the CONTRACTING PARTIES of 12 April 1989 on "Improvements to the GATT Dispute Settlement Rules and Procedures" (L/6489)

Improvements to the GATT Dispute Settlement Rules and Procedures

Decision of 12 April 1989

Following the meetings of the Trade Negotiations Committee at Ministerial level in December 1988 and at the level of high officials in April 1989, the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade

Approve the improvements of the GATT dispute settlement rules and procedures set out below and their application on the basis set out in this Decision:

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

A. General provisions

1. Contracting parties recognize that the dispute settlement system of GATT serves to preserve the rights and obligations of contracting parties under the General Agreement and to clarify the existing provisions of the General Agreement. It is a central element in providing security and predictability to the multilateral trading system.

2. Contracting parties agree that all solutions to matters formally raised under the GATT dispute settlement system under Articles XXII, XXIII and arbitration awards shall be consistent with the General Agreement and shall not nullify or impair benefits accruing to any contracting party under the General Agreement, nor impede the attainment of any objective of the General Agreement.

3. Contracting parties agree that the existing rules and procedures of the GATT in the field of dispute settlement shall continue. It is further agreed that the improvements set out below, which aim to ensure prompt and effective resolution of disputes to the benefit of all contracting parties, shall be applied on a trial basis from 1 May 1989 to the end of the Uruguay Round in respect of complaints brought during that period under Article XXII or XXIII; it is also agreed to keep the application of these improvements under review during the remainder of the Round and to decide on their adoption before the end of the Round; to continue negotiations with the aim of further improving and strengthening the GATT dispute settlement system taking into account the experience gained in the application of these improvements.

4. All the points set out in this Decision shall be applied without prejudice to any provision on special and differential treatment for developing contracting parties in the existing instruments on dispute settlement including the CONTRACTING PARTIES' Decision of 5 April 1966 (BISD 14S/18).

B. Notification

Mutually agreed solutions to matters formally raised under GATT Articles XXII and XXIII, as well as arbitration awards within GATT, must be notified to the Council where any contracting party may raise any point relating thereto.

C. Consultations

1. If a request is made under Article XXII:1 or XXIII:1, the contracting party to which the request is made shall, unless otherwise mutually agreed, reply to the request within ten days after its receipt and shall enter into consultations in good faith within a period of no more than thirty days from the date of the request, with a view to reaching a mutually

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

satisfactory solution. If the contracting party does not respond within ten days, or does not enter into consultations within a period of no more than thirty days, or a period otherwise mutually agreed, from the date of the request, then the contracting party that requested the holding of consultations may proceed directly to request the establishment of a panel or a working party.

2. If the consultations under Article XXII:1 or XXIII:1 fail to settle a dispute within sixty days after the request for consul- tations, the complaining party may request the establishment of a panel or a working party under Article XXIII:2. The complaining party may request a panel or a working party during the sixty-day period if the parties jointly consider that consultations have failed to settle the dispute.

3. Requests for consultations under Article XXII:1 or XXIII:1 shall be notified to the Council by the party which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request.

4. In cases of urgency, including those which concern perishable goods en route, parties shall enter into consultations within a period of no more than ten days from the date of the request. If the consultations have failed to settle the dispute within a period of thirty days after the request, the complaining party may request the establishment of a panel or a working party.

D. Good offices, conciliation, mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree. They may be requested at any time by any party to a dispute. They may begin at any time and be terminated at any time. Once terminated, the complaining party can then proceed with a request for the establishment of a panel or a working party under Article XXIII:2. When good offices, conciliation or mediation are entered into within sixty days of a request for consultations, the complaining party must allow a period of sixty days from the date of the request for consultations before requesting the establishment of a panel or working party. The complaining party may request a panel or a working party during the sixty days if the parties to the dispute jointly consider that the good offices, conciliation or mediation process has failed to settle the dispute.

2. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the panel or working party process proceeds.

3. The Director-General may, acting in an ex officio capacity, offer his good offices, conciliation or mediation with the view to assisting contracting parties to settle a dispute.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

E. Arbitration

1. Expeditious arbitration within GATT as an alternative means of dispute settlement can facilitate the solution of certain disputes that concern issues that are clearly defined by both parties.

2. Resort to arbitration shall be subject to mutual agreement of the parties which shall agree on the procedures to be followed. Agreements to resort to arbitration shall be notified to all contracting parties sufficiently in advance of the actual commencement of the arbitration process.

3. Other contracting parties may become party to an arbitration proceeding upon the agreement of the parties which have agreed to have recourse to arbitration. The parties to the proceeding shall agree to abide by the arbitration award.

F. Panel and working party procedures

(a) Establishment of a panel or a working party

The request for a panel or a working party shall be made in writing. It shall indicate whether consultations were held, and provide a brief summary of the factual and legal basis of the complaint sufficient to present the problem clearly. In case the applicant requests the establishment of a panel or a working party with other than standard terms of reference, the written request shall include the proposed text of special terms of reference. If the complaining party so requests, a decision to establish a panel or working party shall be taken at the latest at the Council meeting following that at which the request first appeared as an item on the Council's regular agenda, unless at that meeting the Council decides otherwise.*

(b) Standard terms of reference

1. Panels shall have the following terms of reference unless the parties to the dispute agree otherwise within twenty days from the establishment of the panel:

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by (name of contracting party) in document L/... and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2".

*References to the Council, made in this paragraph as well as in the following paragraphs, are without prejudice to the competence of the CONTRACTING PARTIES, for which the Council is empowered to act in accordance with normal GATT practice (BISD 26S/215).

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

2. In establishing a panel, the Council may authorize its Chairman to draw up the terms of reference of the panel in consultation with the parties subject to the provisions of the preceding paragraph. The terms of reference thus drawn up shall be circulated to all contracting parties. If other than standard terms of reference are agreed upon, any contracting party may raise any point relating thereto in the Council.

(c) Composition of panels

1. Contracting parties shall undertake, as a general rule, to permit their representatives to serve as panel members.

2. Panels shall be composed of well-qualified governmental and/or non-governmental individuals.

3. The roster of non-governmental panelists shall be expanded and improved. To this end, contracting parties may nominate individuals to serve on panels and shall provide relevant information on their nominee's knowledge of international trade and of the GATT.

4. Panels shall be composed of three members unless the parties to the dispute agree, within ten days from the establishment of the panel, to a panel composed of five members.

5. If there is no agreement on the members within twenty days from the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the Council, shall form the panel by appointing the panelists whom he considers most appropriate, after consulting both parties. The Director-General shall inform the contracting parties of the composition of the panel thus formed no later than ten days from the date he receives such a request.

(d) Procedures for multiple complainants

1. Where more than one contracting party requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all parties concerned. A single panel should be established to examine such complaints whenever feasible.

2. The single panel will organize its examination and present its findings to the Council so that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel will submit separate reports on the dispute concerned. The written submissions by each of the complainants will be made available to the other complainants, and each complainant will have the right to be present when one of the other complainants presents its view to the panel.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

3. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as panelists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonized.

(e) Third contracting parties

1. The interests of the parties to a dispute and those of other contracting parties shall be fully taken into account during the panel process.

2. Any third contracting party having a substantial interest in a matter before a panel, and having notified this to the Council, shall have an opportunity to be heard by the panel and to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report.

3. At the request of the third contracting party, the panel may grant the third contracting party access to the written submissions to the panel by those parties to the dispute which have agreed to the disclosure of their respective submission to the third contracting party.

(f) Time devoted to various phases of a panel

1. Panel procedures should provide sufficient flexibility so as to ensure high-quality panel reports, while not unduly delaying the panel process.

2. Panels shall follow the Suggested Working Procedures found in the July 1985 note of the Office of Legal Affairs unless the members of the panel agree otherwise after consulting the parties to the dispute. After consulting the parties, the panel members shall, as soon as practicable and whenever possible within one week after the composition and terms of reference of the panel have been agreed upon, fix the timetable for the panel process at least until its first substantive meeting.

3. In determining the timetable for the panel process, the panel shall provide sufficient time for the parties to the dispute to prepare their submissions.

4. Each party to the dispute shall deposit its written submissions with the Secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to in the second paragraph of this section and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

5. In order to make the procedures more efficient, the period in which the panel shall conduct its examination, from the time the composition and terms of reference of the panel have been agreed upon to the time when the final report is provided to the parties to the dispute, shall, as a general rule, not exceed six months. In cases of urgency, including those relating to perishable goods, the panel shall aim to provide its report to the parties within three months.

6. When the panel considers that it cannot provide its report within six months, or within three months in cases of urgency, it shall inform the Council in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case should the period from the establishment of the panel to the submission of the report to the contracting parties exceed nine months.

7. In the context of consultations involving a measure taken by a developing contracting party, the parties may agree to extend the periods established in paragraphs 2 and 4 of Section C. If, after the relevant period has elapsed, the parties cannot agree that the consultations have concluded, the Chairman of the Council shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing contracting party, the panel shall accord sufficient time for the developing contracting party to prepare and present its argumentation. The provisions of paragraph 4 of Section G are not affected by any action pursuant to this paragraph.

G. Adoption of panel reports

1. In order to provide sufficient time for the members of the Council to consider panel reports, the reports shall not be considered for adoption by the Council until thirty days after they have been issued to the contracting parties.

2. Contracting parties having objections to panel reports shall give written reasons to explain their objections for circulation at least ten days prior to the Council meeting at which the panel report will be considered.

3. The parties to a dispute shall have the right to participate fully in the consideration of the panel report by the Council, and their views shall be fully recorded. The practice of adopting panel reports by consensus shall be continued, without prejudice to the GATT provisions on decision-making which remain applicable. However, the delaying of the process of dispute settlement shall be avoided.

4. The period from the request under Article XXII:1 or Article XXIII:1 until the Council takes a decision on the panel report shall not, unless agreed to by the parties, exceed fifteen months. The provisions of this paragraph shall not affect the provisions of paragraph 6 of Section F(f).

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

H. Technical assistance

1. While the Secretariat assists contracting parties in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing contracting parties. To this end, the Secretariat shall make available a qualified legal expert within the Technical Co-operation Division to any developing contracting party which so requests. This expert shall assist the developing contracting party in a manner ensuring the continued impartiality of the Secretariat.

2. The Secretariat shall conduct special training courses for interested contracting parties concerning GATT dispute settlement procedures and practices so as to enable contracting parties' experts to be better informed in this regard.

I. Surveillance of implementation of recommendations and rulings

1. Prompt compliance with recommendations or rulings of the CONTRACTING PARTIES under Article XXIII is essential in order to ensure effective resolution of disputes to the benefit of all contracting parties.

2. The contracting party concerned shall inform the Council of its intentions in respect of implementation of the recommendations or rulings. If it is impracticable to comply immediately with the recommendations or rulings, the contracting party concerned shall have a reasonable period of time in which to do so.

3. The Council shall monitor the implementation of recommendations or rulings adopted under Article XXIII:2. The issue of implemen- tation of the recommendations or rulings may be raised at the Council by any contracting party at any time following their adoption. Unless the Council decides otherwise, the issue of implementation of the recommendations or rulings shall be on the agenda of the Council meeting after six months following their adoption and shall remain on the Council's agenda until the issue is resolved. At least ten days prior to each such Council meeting, the contracting party concerned shall provide the Council with a status report in writing of its progress in the implementation of the panel recommendations or rulings.

4. In cases brought by developing contracting parties, the Council shall consider what further action it might take which would be appropriate to the circumstances, in conformity with paragraphs 21 and 23 of the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/214).

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

8. 1979 Agreement on Technical Barriers to Trade, Article 14 and Annexes 2 and 3 (BISD 26S/22, 31)

Article 14

Consultation and Dispute Settlement

Consultation

14.1 Each Party shall afford sympathetic consideration to and adequate opportunity for prompt consultation regarding representations made by other Parties with respect to any matter affecting the operation of this Agreement.

14.2 If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the attainment of any objective of this Agreement is being impeded, by another Party or Parties, and that its trade interests are significantly affected, the Party may make written representations or proposals to the other Party or Parties which it considers to be concerned. Any Party shall give sympathetic consideration to the representations or proposals made to it, with a view to reaching a satisfactory resolution of the matter.

Dispute settlement

14.3 It is the firm intention of Parties that all disputes under this Agreement shall be promptly and expeditiously settled, particularly in the case of perishable products.

14.4 If no solution has been reached after consultations under Article 14, paragraphs 1 and 2, the Committee shall meet at the request of any Party to the dispute within thirty days of receipt of such a request, to investigate the matter with a view to facilitating a mutually satisfactory solution.

14.5 In investigating the matter and in selecting, subject, inter alia, to the provisions of Article 14, paragraphs 9 and 14, the appropriate procedures the Committee shall take into account whether the issues in dispute relate to commercial policy considerations and/or to questions of a technical nature requiring detailed consideration by experts.

14.6 In the case of perishable products the Committee shall, in keeping with Article 14, paragraph 3, consider the matter in the most expeditious manner possible with a view to facilitating a mutually satisfactory solution within three months of the request for the Committee investigation.

14.7 It is understood that where disputes arise affecting products with a definite crop cycle of twelve months, every effort would be made by the Committee to deal with these disputes within a period of twelve months.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

14.8 During any phase of a dispute settlement procedure including the earliest phase, competent bodies and experts in matters under consideration may be consulted and invited to attend the meetings of the Committee; appropriate information and assistance may be requested from such bodies and experts.

Technical issues

14.9 If no mutually satisfactory solution has been reached under the procedures of Article 14, paragraph 4 within three months of the request for the Committee investigation, upon the request of any Party to the dispute who considers the issues to relate to questions of a technical nature the Committee shall establish a technical expert group and direct it to:

examine the matter;

consult with the Parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution;

make a statement concerning the facts of the matter; and

make such findings as will assist the Committee in making recommendations or giving rulings on the matter, including inter alia, and if appropriate, findings concerning the detailed scientific judgments involved, whether the measure was necessary for the protection of human, animal or plant life or health, and whether a legitimate scientific judgment is involved.

14.10 Technical expert groups shall be governed by the procedures of Annex 2.

14.11 The time required by the technical expert group considering questions of a technical nature will vary with the particular case. The technical expert group should aim to deliver its findings to the Committee within six months from the date the technical issue was referred to it, unless extended by mutual agreement between the Parties to the dispute.

14.12 Reports should set out the rationale behind any findings that they make.

14.13 If no mutually satisfactory solution has been reached after completion of the Procedures in this Article, and any Party to the dispute requests a panel, the Committee shall establish a panel which shall operate under the provisions of Article 14, paragraphs 15 to 18.

Panel proceedings

14.14 If no mutually satisfactory solution has been reached under the procedures of Article 14, paragraph 4 within three months of the request for the Committee investigation and the procedures of Article 14, paragraphs 9 to 13 have not been invoked, the Committee shall, upon request of any Party to the dispute, establish a panel.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

14.15 When a panel is established, the Committee shall direct it to:

examine the matter;

consult with Parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution;

make a statement concerning the facts of the matter as they relate to the application of provisions of this Agreement and make such findings as will assist the Committee in making recommendations or giving rulings on the matter.

14.16 Panels shall be governed by the procedures in Annex 3.

14.17 Panels shall use the report of any technical expert group established under Article 14, paragraph 9 as the basis for its consideration of issues that involve questions of a technical nature.

14.18 The time required by panels will vary with the particular case. They should aim to deliver their findings, and where appropriate, recommendations to the Committee without undue delay, normally within a period of four months from the date that the panel was established.

Enforcement

14.19 After the investigation is complete or after the report of a technical expert group, working group, panel or other body is presented to the Committee, the Committee shall give the matter prompt consideration. With respect to panel reports, the Committee shall take appropriate action normally within thirty days of receipt of the report, unless extended by the Committee, including:

a statement concerning the facts of the matter; or

recommendations to one or more Parties; or

any other ruling which it deems appropriate.

14.20 If a Party to which recommendations are addressed considers itself unable to implement them, it should promptly furnish reasons in writing to the Committee. In that event the Committee shall consider what further action may be appropriate.

14.21 If the Committee considers that the circumstances are serious enough to justify such action, it may authorize one or more Parties to suspend, in respect of any other Party, the application of such obligations under this Agreement as it determines to be appropriate in the circumstances. In this respect, the Committee may, inter alia, authorize the suspension of the application of obligations, including those in Articles 5 to 9, in order to restore mutual economic advantage and balance of rights and obligations.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

14.22 The Committee shall keep under surveillance any matter on which it has made recommendations or given rulings.

Other provisions relating to dispute settlement

Procedures

14.23 If disputes arise between Parties relating to rights and obligations of this Agreement, Parties should complete the dispute settlement procedures under this Agreement before availing themselves of any rights which they have under the GATT. Parties recognize that, in any case so referred to the CONTRACTING PARTIES, any finding, recommendation or ruling pursuant to Article 14, paragraphs 9 to 18 may be taken into account by the CONTRACTING PARTIES, to the extent they relate to matters involving equivalent rights and obligations under the General Agreement. When Parties resort to GATT Article XXIII, a determination under that Article shall be based on GATT provisions only.

Levels of obligation

14.24 The dispute settlement provisions set out above can be invoked in cases where a Party considers that another Party has not achieved satisfactory results under Articles 3, 4, 6, 8 and 9 and its trade interests are significantly affected. In this respect, such results shall be equivalent to those envisaged in Articles 2, 5 and 7 as if the body in question were a Party.

Processes and production methods

14.25 The dispute settlement procedures set out above can be invoked in cases where a Party considers that obligations under this Agreement are being circumvented by the drafting of requirements in terms of processes and production methods rather than in terms of characteristics of products.

Retroactivity

14.26 To the extent that a Party considers that technical regulations, standards, methods for assuring conformity with technical regulations or standards, or certification systems which exist at the time of entry into force of this Agreement are not consistent with the provisions of this Agreement, such regulations, standards, methods and systems shall be subject to the provisions in Articles 13 and 14 of this Agreement, in so far as they are applicable.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

ANNEX 2

TECHNICAL EXPERT GROUPS

The following procedures shall apply to technical expert groups established in accordance with the provisions of Article 14.

1. Participation in technical expert groups shall be restricted to persons, preferably to government officials, of professional standing and experience in the field in question.

2. Citizens of countries whose central governments are Parties to a dispute shall not be eligible for membership of the technical expert group concerned with that dispute. Members of technical expert groups shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before a technical expert group.

3. The Parties to a dispute shall have access to all relevant information provided to a technical expert group, unless it is of a confidential nature. Confidential information provided to the technical expert group shall not be revealed without formal authorization from the government or person providing the information. Where such information is requested from the technical expert group but release of such information by the technical expert group is not authorized, a non-confidential summary of the information will be provided by the government or person supplying the information.

4. To encourage development of mutually satisfactory solutions between the Parties and with a view to obtaining their comments, each technical expert group should first submit the descriptive part of its report to the Parties concerned, and should subsequently submit to the Parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Parties.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

ANNEX 3

PANELS

The following procedures shall apply to panels established in accordance with the provisions of Article 14.

1. In order to facilitate the constitution of panels, the Chairman of the Committee shall maintain an informal indicative list of government officials knowledgeable in the area of technical barriers to trade and experienced in the field of trade relations and economic development. This list may also include persons other than government officials. In this connection, each Party shall be invited to indicate at the beginning of every year to the Chairman of the Committee the name(s) of the one or two governmental experts whom the Parties would be willing to make available for such work. When a panel is established under Article 14, paragraph 13 or Article 14, paragraph 14, the Chairman, within seven days shall propose the composition of the panel consisting of three or five members, preferably government officials. The Parties directly concerned shall react within seven working days to nominations of panel members by the Chairman and shall not oppose nominations except for compelling reasons. Citizens of countries whose central governments are Parties to a dispute shall not be eligible for membership of the panel concerned with that dispute. Panel members shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before a panel.

2. Each panel shall develop its own working procedures. All Parties having a substantial interest in the matter and having notified this to the Committee, shall have an opportunity to be heard. Each panel may consult and seek information and technical advice from any source it deems appropriate. Before a panel seeks such information or technical advice from a source within the jurisdiction of a Party, it shall inform the government of that Party. In case such consultation with competent bodies and experts is necessary it should be at the earliest possible stage of the dispute settlement procedure. Any Party shall respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information provided to the panel shall not be revealed without formal authorization from the government or person providing the information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information will be provided by the government or person supplying the information.

3. Where the Parties to a dispute have failed to come to a satisfactory solution, the panel shall submit its findings in a written form. Panel reports should normally set out the rationale behind any findings and recommendations that it makes. Where a bilateral settlement of the matter has been found, the report of the panel may be confined to a brief description of the case and to reporting that a solution has been reached.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

4. To encourage development of mutually satisfactory solutions between the Parties and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the Parties concerned, and should subsequently submit to the Parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Parties.

9. 1979 Agreement on Government Procurement, Article VII:6-14 (BISD 26S/49)

Dispute settlement

6. If no mutually satisfactory solution has been reached as a result of consultations under paragraph 4 between the Parties concerned, the Committee shall meet at the request of any party to the dispute within thirty days of receipt of such a request to investigate the matter, with a view to facilitating a mutually satisfactory solution.

7. If no mutually satisfactory solution has been reached after detailed examination by the Committee under paragraph 6 within three months, the Committee shall, at the request of any party to the dispute establish a panel to:

(a) examine the matter;

(b) consult regularly with the parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution;

(c) make a statement concerning the facts of the matter as they relate to application of this Agreement and make such findings as will assist the Committee in making recommendations or giving rulings on the matter.

8. In order to faciliate the constitution of panels, the Chairman of the Committee shall maintain an informal indicative list of governmental officials experienced in the field of trade relations. This list may also include persons other than governmental officials. In this connection, each Party shall be invited to indicate at the beginning of every year to the Chairman of the Committee the name(s) of the one or two persons whom the Parties would be willing to make available for such work. When a panel is established under paragraph 7, the Chairman, within seven days, shall propose to the parties to the dispute the composition of the panel consisting of three or five members and preferably government officials. The parties directly concerned shall react within seven working days to nominations of panel members by the Chairman and shall not oppose nominations except for compelling reasons.

Citizens of countries whose governments are parties to a dispute shall not be eligible for membership of the panel concerned with that dispute. Panel members shall serve in their individual capacities and not as governmental representatives nor as representatives of any organization.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Governments or organizations shall therefore not give them instructions with regard to matters before a panel.

9. Each panel shall develop its own procedures. All Parties, having a substantial interest in the matter and having notified this to the Committee, shall have an opportunity to be heard. Each panel may consult with and seek information from any source it deems appropriate. Before a panel seeks such information from a source within the jurisdiction of a Party it shall inform the government of that Party. Any Party shall respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information provided to the panel shall not be revealed without formal authorization from the government or person providing the information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information, authorized by the government or person providing the information, will be provided.

Where a mutually satisfactory solution to a dispute cannot be found or where the dispute relates to an interpretation of this Agreement, the panel should first submit the descriptive part of its report to the Parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Committee. Where an interpretation of this Agreement is not involved and where a bilateral settlement of the matter has been found, the report of the panel may be confined to a brief description of the case and to reporting that a solution had been reached.

10. The time required by panels will vary with the particular case. Panels should aim to deliver their findings, and where appropriate, recommendations, to the Committee without undue delay, taking into account the obligation of the Committee to ensure prompt settlement in cases of urgency, normally within a period of four months from the date the panel was established.

Enforcement

11. After the examination is complete or after the report of a panel, working party or other subsidiary body is presented to the Committee, the Committee shall give the matter prompt consideration. With respect to these reports, the Committee shall take appropriate action normally within thirty days of receipt of the report unless extended by the Committee, including:

(a) a statement concerning the facts of the matter;

(b) recommendations to one or more Parties; and/or

(c) any other ruling which it deems appropriate.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Any recommendations by the Committee shall aim at the positive resolution of the matter on the basis of the operative provisions of this Agreement and its objectives set out in the Preamble.

12. If a Party to which recommendations are addressed considers itself unable to implement them, it should promptly furnish reasons in writing to the Committee. In that event, the Committee shall consider what further action may be appropriate.

13. The Committee shall keep under surveillance any matter on which it has made recommendations or given rulings.

Balance of rights and obligations

14. If the Committee's recommendations are not accepted by a party, or parties, to the dispute, and if the Committee considers that the circumstances are serious enough to justify such action, it may authorize a Party or Parties to suspend in whole or in part, and for such time as may be necessary, the application of this Agreement to any other Party or Parties, as is determined to be appropriate in the circumstances.

10. 1979 Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, Articles 12, 13, 17 and 18 (BISD 26S/71, 72, 75, 76)

Article 12

Consultations

1. Whenever a signatory has reason to believe that an export subsidy is being granted or maintained by another signatory in a manner inconsistent with the provisions of this Agreement, such signatory may request consultations with such other signatory.

2. A request for consultations under paragraph 1 above shall include a statement of available evidence with regard to the existence and nature of the subsidy in question.

3. Whenever a signatory has reason to believe that any subsidy is being granted or maintained by another signatory and that such subsidy either causes injury to its domestic industry, nullification or impairment of benefits accruing to it under the General Agreement, or serious prejudice to its interests, such signatory may request consultations with such other signatory.

4. A request for consultations under paragraph 3 above shall include a statement of available evidence with regard to (a) the existence and nature of the subsidy in question and (b) the injury caused to the domestic industry or, in the case of nullification or impairment, or serious prejudice, the adverse effects caused to the interests of the signatory requesting consultations.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

5. Upon request for consultations under paragraph 1 or paragraph 3 above, the signatory believed to be granting or maintaining the subsidy practice in question shall enter into such consultations as quickly as possible. The purpose of the consultations shall be to clarify the facts of the situation and to arrive at a mutually acceptable solution.

Article 13

Conciliation, dispute settlement and authorized countermeasures

1. If, in the case of consultations under paragraph 1 of Article 12, a mutually acceptable solution has not been reached within thirty days[1] of the request for consultations, any signatory party to such consultations may refer the matter to the Committee for conciliation in accordance with the provisions of Part VI.

2. If, in the case of consultations under paragraph 3 of Article 12, a mutually acceptable solution has not been reached within sixty days of the request for consultations, any signatory party to such consultations may refer the matter to the Committee for conciliation in accordance with the provisions of Part VI.

3. If, any dispute arising under this Agreement is not resolved as a result of consultations or conciliations, the Committee shall, upon request, review the matter in accordance with the dispute settlement procedures of Part VI.

4. If, as a result of its review, the Committee concludes that an export subsidy is being granted in a manner inconsistent with the provisions of this Agreement or that a subsidy is being granted or maintained in such a manner as to cause injury, nullification or impairment, or serious prejudice, it shall make such recommendations[2] to the parties as may be appropriate to resolve the issue and, in the event the recommendations are not followed, it may authorize such countermeasures as may be appropriate, taking into account the degree and nature of the adverse effects found to exist, in accordance with the relevent provisions of Part VI.

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[1] Any time periods mentioned in this Article and in Article 18 may be extended by mutual agreement.

[2] In making such recommendations, the Committees shall take into account the trade, development and financial needs of developing country signatories.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Article 17

Conciliation

1. In cases where matters are referred to the Committee for conciliation failing a mutually agreed solution in consultations under any provision of this Agreement, the Committee shall immediately review the facts involved and, through its good offices, shall encourage the signatories involved to develop a mutually acceptable solution.[1]

2. Signatories shall make their best efforts to reach a mutually satisfactory solution throughout the period of conciliation.

3. Should the matter remain unresolved, notwithstanding efforts at conciliation made under paragraph 2 above, any signatory involved may, thirty days after the request for conciliation, request that a panel be established by the Committee in accordance with the provisions of Article 18 below.

Article 18

Dispute Settlement

1. The Committee shall establish a panel upon request pursuant to paragraph 3 of Article 17[2]. A panel so established shall review the facts of the matter and, in light of such facts, shall present to the Committee its findings concerning the rights and obligations of the signatories party to the dispute under the relevant provisions of the General Agreement as interpreted and applied by this Agreement.

2. A panel should be established within thirty days of a request therefor[3] and a panel so established should deliver its findings to the Committee within sixty days after its establishment.

3. When a panel is to be established, the Chairman of the Committee, after securing the agreement of the signatories concerned, should propose

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[1] In this connection, the Committee may draw signatories' attention to those cases in which, in its view, there is no reasonable basis supporting the allegations made.

[2] This does not preclude, however, the more rapid establishment of a panel when the Committee so decides, taking into account the urgency of the situation.

[3] The parties to the dispute would respond within a short period of time, i.e. seven working days, to nominations of panel members by the Chairman of the Committee and would not oppose nominations except for compelling reasons.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

the composition of the panel. Panels shall be composed of three or five members, preferably governmental, and the composition of panels should not give rise to delays in their establishment. It is understood that citizens of countries whose governments[1] are parties to the dispute would not be members of the panel concerned with that dispute.

4. In order to facilitate the constitution of panels, the Chairman of the Committee should maintain an informal indicative list of governmental and non-governmental persons qualified in the fields of trade relations, economic development, and other matters covered by the General Agreement and this Agreement, who could be available for serving on panels. For this purpose, each signatory would be invited to indicate at the beginning of every year to the Chairman of the Committee the name of one or two persons who would be available for such work.

5. Panel members would serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments would therefore not give them instructions with regard to matters before a panel. Panel members should be selected with a view to ensuring the independence of the members, a sufficiently diverse background and a wide spectrum of experience.

6. To encourage development of mutually satisfactory solutions between the parties to a dispute and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Committee.

7. If a mutually satisfactory solution is developed by the parties to a dispute before a panel, any signatory with an interest in the matter has a right to enquire about and be given appropriate information about that solution and a notice outlining the solution that has been reached shall be presented by the panel to the Committee.

8. In cases where the parties to a dispute have failed to come to a satisfactory solution, the panels shall submit a written report to the Committee which should set forth the findings of the panel as to the questions of fact and the application of the relevant provisions of the General Agreement as interpreted and applied by this Agreement and the reasons and bases therefor.

9. The Committee shall consider the panel report as soon as possible and, taking into account the findings contained therein, may make recommendations to the parties with a view to resolving the dispute. If

[1] The term "governments" is understood to mean governments of all member countries in cases of customs unions.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

the Committee's recommendations are not followed within a reasonable period, the Committee may authorize appropriate countermeasures (including withdrawal of GATT concessions or obligations) taking into account the nature and degree of the adverse effect found to exist. Committee recommendations should be presented to the parties within thirty days of the receipt of the panel report.

11. 1979 International Dairy Arrangement, Article IV:5 and 6 (BISD 26S/94) See also the similar Article IV:6 of the 1979 Arrangement Regarding Bovine Meat (BISD 26S/88)

Article IV

Functions of the International Dairy Products Council and Co-operation between the Participants to this Arrangement

5. Any participant may raise before the Council any matter[1] affecting this Arrangement, inter alia, for the same purposes provided for in paragraph 2 of this Article. Each participant shall promptly afford adequate opportunity for consultation regarding such matter[1] affecting this Arrangement.

6. If the matter affects the application of the specific provisions of the Protocols annexed to this Arrangement, any participant which considers that its trade interests are being seriously threatened and which is unable to reach a mutually satisfactory solution with the other participant or participants concerned, may request the Chairman of the Committee for the relevant Protocol established under Article VII:2(a) of this Arrangement, to convene a special meeting of the Committee on an urgent basis so as to determine as rapidly as possible, and within four working days if requested, any measures which may be required to meet the situation. If a satisfactory solution cannot be reached, the Council shall, at the request of the Chairman of the Committee for the relevant Protocol, meet within a period of not more than fifteen days to consider the matter with a view to facilitating a satisfactory solution.

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[1] It is confirmed that the term "matter" in this paragraph includes any matter which is covered by multilateral agreements negotiated within the framework of the Multilateral Trade Negotiations, in particular those bearing on export and import measures. It is further confirmed that the provisions of Article IV:5 and this footnote are without prejudice to the rights and obligations of the parties to such agreements.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

12. 1979 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, Articles 19, 20 and Annex III (BISD 26S/128, 149)

Consultations

Article 19

1. If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of this Agreement is being impeded, as a result of the actions of another Party or of other Parties, it may, with a view to reaching a mutually satisfactory solution of the matter, request consultations with the Party or Parties in question. Each Party shall afford sympathetic consideration to any request from another Party for consultations.

2. The Parties concerned shall initiate requested consultations promptly.

3. Parties engaged in consultations on a particular matter affecting the operation of this Agreement shall attempt to conclude such consultations within a reasonably short period of time. The Technical Committee shall provide, upon request, advice and assistance to Parties engaged in consultations.

Dispute Settlement

Article 20

1. If no mutually satisfactory solution has been reached between the Parties concerned in consultations under Article 19 above, the Committee shall meet at the request of any party to the dispute, within thirty days of receipt of such a request, to investigate the matter, with a view to facilitating a mutually satisfactory solution.

2. In investigating the matter and in selecting its procedures, the Committee shall take into account whether the issues in dispute relate to commercial policy considerations or to questions requiring detailed technical consideration. The Committee may request on its own initiative that the Technical Committee carry out an examination, as provided in paragraph 4 below, of any question requiring technical consideration. Upon the request of any party to the dispute that considers the issues to relate to questions of a technical nature, the Committee shall request the Technical Committee to carry out such an examination.

3. During any phase of a dispute settlement procedure, competent bodies and experts in matters under consideration may be consulted; appropriate information and assistance may be requested from such bodies and experts. The Committee shall take into consideration the results of any work of the Technical Committee that pertain to the matter in dispute.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Technical issues

4. When the Technical Committee is requested under the provisions of paragraph 2 above, it shall examine the matter and report to the Committee no later than three months from the date the technical issue was referred to it, unless the period is extended by mutual agreement between the parties to the dispute.

Panel proceedings

5. In cases where the matter is not referred to the Technical Committee, the Committee shall establish a panel upon the request of any party to the dispute if no mutually satisfactory solution has been reached within three months from the date of the request to the Committee to investigate the matter. Where the matter is referred to the Technical Committee, the Committee shall establish a panel upon the request of any party to the dispute if no mutually satisfactory solution has been reached within one month from the date when the Technical Committee presents its report to the Committee.

6. (a) When a panel is established, it shall be governed by the procedures as set forth in Annex III.

(b) If the Technical Committee has made a report on the technical aspects of the matter in dispute, the panel shall use this report as the basis for its consideration of the technical aspects of the matter in dispute.

Enforcement

7. After the investigation is completed or after the report of the Technical Committee or panel is presented to the Committee, the Committee shall give the matter prompt consideration. With respect to panel reports, the Committee shall take appropriate action normally within thirty days of receipt of the report. Such action shall include:

(i) a statement concerning the facts of the matter; and

(ii) recommendations to one or more Parties or any other ruling which it deems appropriate.

8. If a Party to which recommendations are addressed considers itself unable to implement them, it should promptly furnish reasons in writing to the Committee. In that event, the Committee shall consider what further action may be appropriate.

9. If the Committee considers that the circumstances are serious enough to justify such action, it may authorize one or more Parties to suspend the application to any other Party or Parties of such obligations under this Agreement as it determines to be appropriate in the circumstances.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

10. The Committee shall keep under surveillance any matter on which it has made recommendations or given rulings.

11. If a dispute arises between Parties relating to rights and obligations under this Agreement, Parties should complete the dispute settlement procedures under this Agreement before availing themselves of any rights which they have under the GATT, including invoking Article XXIII thereof.

ANNEX III

Ad Hoc Panels

1. Ad hoc panels established by the Committee under this Agreement shall have the following responsibilities:

(a) to examine the matter referred to it by the Committee;

(b) to consult with the parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution; and

(c) to make a statement concerning the facts of the matter as they relate to the application of the provisions of this Agreement and, make such findings as will assist the Committee in making recommendations or giving rulings on the matter.

2. In order to facilitate the constitution of panels, the Chairman of the Committee shall maintain an informal indicative list of government officials knowledgeable in the area of customs valuation and experienced in the field of trade relations and economic development. This list may also include persons other than government officials. In this connection, each Party shall be invited to indicate at the beginning of every year to the Chairman of the Committee the name(s) of the one or two governmental experts whom the Parties would be willing to make available for such work. When a panel is established, the Chairman, after consultation with the Parties concerned, shall, within seven days of such establishment propose the composition of the panel consisting of three or five members and preferably government officials. The Parties directly concerned shall react within seven working days to nominations of panel members by the Chairman and shall not oppose nominations except for compelling reasons.

Citizens of countries whose governments are parties to a dispute shall not be eligible for membership of the panel concerned with that dispute. Panel members shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before a panel.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

3. Each panel shall develop its own working procedures. All Parties having a substantial interest in the matter and having notified this to the Committee shall have an opportunity to be heard. Each panel may consult and seek information and technical advice from any source it deems appropriate. Before a panel seeks such information or technical advice from a source within the jurisdiction of a Party, it shall inform the government of that Party. Any Party shall respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information provided to the panel shall not be disclosed without the specific permission of the person or government providing such information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information, authorized by the person or government providing the information, will be provided.

4. Where the parties to the dispute have failed to reach a satisfactory solution the panel shall submit its findings in writing. The report of a panel should normally set out the rationale behind its findings. Where a settlement of the matter is reached between the parties, the report of the panel may be confined to a brief description of the dispute and to a statement that a solution has been reached.

5. Panels shall use such report of the Technical Committee as may have been issued under Article 20.4 of this Agreement as the basis for their consideration of issues that involve questions of a technical nature.

6. The time required by panels will vary with the particular case. They should aim to deliver their findings, and where appropriate, recommendations, to the Committee without undue delay, normally within a period of three months from the date that the panel was established.

7. To encourage development of mutually satisfactory solutions between the parties to a dispute and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the Parties concerne and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Parties.

13. 1979 Agreement on Import Licensing Procedures, Article 4 (BISD 26S/159)

Article 4

Institutions, Consultation and Dispute Settlement

1. There shall be established under this Agreement a Committee on Import Licensing composed of representatives from each of the Parties (referred to in this Agreement as "the Committee"). The Committee shall elect its own Chairman and shall meet as necessary for the purpose of affording Parties the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

2. Consultations and the settlement of disputes with respect to any matter affecting the operation of this Agreement, shall be subject to the procedures of Articles XXII and XXIII of the GATT.

14. 1979 Agreement on Trade in Civil Aircraft, Article 8 (BISD 26S/166)

Article 8

Surveillance, Review, Consultation and Dispute Settlement

8.1 There shall be established a Committee on Trade in Civil Aircraft (hereinafter referred to as "the Committee") composed of representatives of all Signatories. The Committee shall elect its own Chairman. It shall meet as necessary, but not less than once a year, for the purpose of affording Signatories the opportunity to consult on any matters relating to the operation of this Agreement, including developments in the civil aircraft industry, to determine whether amendments are required to ensure continuance of free and undistorted trade, to examine any matter for which it has not been posible to find a satisfactory solution through bilateral consultations, and to carry out such repsonsibilities as are assigned to it under this Agreement, or by the Signatories.

8.2 The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall annually inform the CONTRACTING PARTIES to the GATT of developments during the period covered by such review.

8.3 Not later than the end of the third year from the entry into force of this Agreement and periodically thereafter, Signatories shall undertake further negotiations, with a view to broadening and improving this Agreement on the basis of mutual reciprocity.

8.4 The Committee may establish such subsidiary bodies as may be appropriate to keep under regular review the application of this Agreement to ensure a continuing balance of mutual advantages. In particular, it shall establish an appropriate subsidiary body in order to ensure a continuing balance of mutual advantages, reciprocity and equivalent results with regard to the implementation of the provisions of Article 2 above related to product coverage, the end-use systems, customs duties and other charges.

8.5 Each Signatory shall afford sympathetic consideration to and adequate opportunity for prompt consultation regarding representations made by another Signatory with respect to any matter affecting the operation of this Agreement.

8.6 Signatories recognize the desirability of consultations with other Signatories in the Committee in order to seek a mutually acceptable solution prior to the initiation of an investigation to determine the existence, degree and effect of any alleged subsidy. In those exceptional circumstances in which no consultations occur before such domestic

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

procedures are initiated, Signatories shall notify the Committee immediately of initiation of such procedures and enter into simultaneous consultations to seek a mutually agreed solution that would obviate the need for countervailing measures.

8.7 Should a Signatory consider that its trade interests in civil aircraft manufacture, repair, maintenance, rebuilding, modification or conversion have been or are likely to be adversely affected by any action by another Signatory, it may request review of the matter by the Committee. Upon such a request, the Committee shall convene within thirty days and shall review the matter as quickly as possible with a view to resolving the issues involved as promptly as possible and in particular prior to final resolution of these issues elsewhere. In this connection the Committee may issue such rulings or recommendations as may be appropriate. Such review shall be without prejudice to the rights of Signatories under the GATT or under instruments multilaterally negotiated under the auspices of the GATT, as they affect trade in civil aircraft. For the purposes of aiding consideration of the issues involved, under the GATT and such instruments, the Committee may provide such technical assistance as may be appropriate.

8.8 Signatories agree that, with respect to any dispute related to a matter covered by this Agreement, but not covered by other instruments multilaterally negotiated under the auspices of the GATT, the provisions of Articles XXII and XXIII of the General Agreement and the provisions of the Understanding related to Notification, Consultation, Dispute Settlement and Surveillance shall be applied, mutatis mutandis, by the Signatories and the Committee for the purposes of seeking settlement of such dispute. These procedures shall also be applied for the settlement of any dispute related to a matter covered by this Agreement and by another instrument multilaterally negotiated under the auspices of the GATT, should the parties to the dispute so agree.

15. 1979 Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, Article 15 (BISD 26S/185)

Article 15

Consultation, Conciliation and Dispute Settlement[1]

1. Each Party shall afford sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, representations made by another Party with respect to any matter affecting the operation of this Agreement.

[1] If disputes arise between Parties relating to rights and obligations under this Agreement, Parties should complete the dispute settlement procedures under this Agreement before availing themselves of any rights which they have under the GATT.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

2. If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of the Agreement is being impeded, by another Party or Parties, it may, with a view to reaching a mutually satisfactory resolution of the matter, request in writing consultations with the Party or Parties in question. Each Party shall afford sympathetic consideration to any request from another Party for consultation. The Parties concerned shall initiate consultation promptly.

3. If any Party considers that the consultation pursuant to paragraph 2 has failed to achieve a mutually agreed solution and final action has been taken by the administering authorities of the importing country to levy definitive anti-dumping duties or to accept price undertakings, it may refer the matter to the Committee for conciliation. When a provisional measure has a significant impact and the Party considers the measure was taken contrary to the provisions of paragraph 1 of Article 10 of this Agreement, a Party may also refer such matter to the Committee for conciliation. In cases where matters are referred to the Committee for conciliation, the Committee shall meet within thirty days to review the matter, and, through its good offices, shall encourage the Parties involved to develop a mutually acceptable solution.[1]

4. Parties shall make their best efforts to reach a mutually satisfactory solution throughout the period of conciliation.

5. If no mutually agreed solution has been reached after detailed examination by the Committee under paragraph 3 within three months, the Committee shall, at the request of any party to the dispute, establish a panel to examine the matter, based upon:

(a) a written statement of the Party making the request indicating how a benefit accruing to it, directly or indirectly, under this Agreement has been nullified or impaired, or that the achieving of the objectives of the Agreement is being impeded, and

(b) the facts made available in conformity with appropriate domestic procedures to the authorities of the importing country.

6. Confidential information provided to the panel shall not be revealed without formal authorization from the person or authority providing the information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information, authorized by the authority or person providing the information, will be provided.

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[1] In this connection the Committee may draw Parties' attention to those cases in which, in its view, there are no reasonable bases supporting the allegations made.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

7. Further to paragraphs 1-6 the settlement of disputes shall mutatis mutandis be governed by the provisions of the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance. Panel members shall have relevant experience and be selected from Parties not parties to the dispute.

16. 1973 Arrangement Regarding International Trade in Textiles, Articles 1:6, 11:4 to 10 (BISD 21S/5, 14) and paragraphs 5 and 23 of the Conclusions of the Textiles Committee adopted on 22 December 1981 (BISD 28S/4 and 8)

Article 1

6. The provisions of this Arrangement shall not affect the rights and obligations of the participating countries under the GATT.

Article 11

4. In the absence of any mutually agreed solution in bilateral negotiations or consultations between participating countries provided for in this Arrangement, the Textiles Surveillance Body at the request of either party, and following a thorough and prompt consideration of the matter, shall make recommendations to the parties concerned.

5. The Textiles Surveillance Body shall, at the request of any participating country, review promptly any particular measures or arrangements which that country considers to be detrimental to its interests where consultations between it and the participating countries directly concerned have failed to produce a satisfactory solution. It shall make recommendations as appropriate to the participating country or countries concerned.

6. Before formulating its recommendations on any particular matter referred to it, the Textiles Surveillance Body shall invite participation of such participating countries as may be directly affected by the matter in question.

7. When the Textiles Surveillance Body is called upon to make recommendations or findings it shall do so, except when otherwise provided in this Arrangement, within a period of thirty days whenever practicable. All such recommendations or findings shall be communicated to the Textiles Committee for the information of its members.

8. Participating countries shall endeavour to accept in full the recommendations of the Textiles Surveillance Body. Whenever they consider themselves unable to follow any such recommendations, they shall forthwith inform the Textiles Surveillance Body of the reasons therefore and of the extent, if any, to which they are able to follow the recommendations.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

9. If, following recommendations by the Textiles Surveillance Body, problems continue to exist between the parties, these may be brought before the Textiles Committee or before the GATT Council through the normal GATT procedures.

10. Any recommendations and observations of the Textiles Surveillance Body would be taken into account should the matters related to such recommendations and observations subsequently be brought before the CONTRACTING PARTIES to the GATT, particularly under the procedures of Article XXIII of the GATT.

CONCLUSIONS OF THE TEXTILES COMMITTEE
ADOPTED ON 22 DECEMBER 1981

5. It was agreed that any serious problems of textile trade falling within the purview of the Arrangement should be resolved through consultations and negotiations conducted under the relevant provisions thereof.

23. It was felt that in order to ensure the proper functioning of the MFA, all participants should refrain from taking measures on textiles covered by the MFA, outside the provisions therein, before exhausting all the relief measures provided in the MFA.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

II. INTERNAL WORKING PROCEDURES ADOPTED BY PANELS ESTABLISHED UNDER ARTICLE XXIII:2 OF THE GENERAL AGREEMENT

1. In July 1985, the Office of Legal Affairs of the GATT secretariat prepared a note for the attention of newly established panels, which describes the general procedures adopted by the CONTRACTING PARTIES for panels established under Article XXIII:2 of the General Agreement and suggests standard working procedures to be adopted by panels (text in: MTN.GNG/NG13/W/4). Since then, GATT panels established under Article XXIII:2 have regularly adopted these standard procedures as a basis for their work. By Decision of 12 April 1989, the CONTRACTING PARTIES adopted Improvements to the GATT Dispute Settlement Rules and Procedures (L/6489) and agreed that "Panels shall follow the suggested working procedures found in the July 1985 Note of the Office of Legal Affairs, unless the members of the panel agree otherwise after consulting the parties to the dispute" (L/6489, page 6). The following revised Note incorporates changes resulting from this Decision.

2. Note by the secretariat for the attention of newly established panels

General procedures

The procedures to be followed in the case of complaints under Article XXIII:2 of the General Agreement are set out in the 1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance adopted by the CONTRACTING PARTIES (BISD 26S/210), in the Agreed Description of the Customary Practice of the GATT in the Field of Dispute Settlement annexed to this Understanding (BISD 26S/215), in the 1982 Ministerial Declaration (BISD 29S/13), and in the decisions on dispute settlement procedures adopted by the CONTRACTING PARTIES in November 1984 (BISD 31S/9) and in April 1989 (L/6489). For the convenience of newly established panels the procedural rules that are relevant in the period between the establishment of a panel and the submission of its report to the CONTRACTING PARTIES are reproduced in Annex A.

In 1966 the CONTRACTING PARTIES adopted procedures for the settlement of disputes between developed and less-developed contracting parties (BISD 14S/18). These procedures apply only if a less-developed contracting party bringing a complaint under Article XXIII specifically invokes them. They are therefore not included in the Annex.

Working procedures

According to the Decision of April 1989, panels are to follow the Suggested Working Procedures found in the July 1985 note of the Office of Legal Affairs unless the members of the panel agree otherwise after consulting the parties to the dispute. The Suggested Working Procedures, slightly revised to take into account the Decision of April 1989, are set out in Annex B.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

ANNEX A

General Procedures Adopted by the CONTRACTING PARTIES for Panels Established under Article XXIII:2 of the General Agreement

The following is a list of the main procedural rules for complaints under Article XXIII:2 to be followed in the period between the formation of the panel and the submission of its report to the CONTRACTING PARTIES. For the convenience of the reader, these rules have been grouped by subject matter. The rules marked "*" are taken from the 1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance; those marked "**" from the Annex to this Understanding; those marked "***" from the 1982 Ministerial Declaration; those marked "****" from the 1984 Decision on Dispute Settlement Procedures; and those marked "*****" from the April 1989 Decision on Dispute Settlement Procedures. Wherever these decisions of the CONTRACTING PARTIES deal with the same subject matter, only the latest decision is quoted.

Function of panels

The function of panels is to assist the CONTRACTING PARTIES in discharging their responsibilities under Article XXIII:2. Accordingly, a panel should make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the General Agreement and, if so requested by the CONTRACTING PARTIES, make such other findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2.*

... after reviewing the facts of the case, the applicability of GATT provisions and the arguments advanced, the panel should come to ... a clear finding with respect to any contravention of GATT provisions and/or on the question of nullification and impairment of benefits. Where a finding establishing a contravention of GATT provisions or nullification and impairment is made, the panel should make such suggestions as appropriate for dealing with the matter as would assist the CONTRACTING PARTIES in making recommendations to contracting parties which they consider to be concerned or give a ruling on the matter as appropriate.***

Contracting parties recognize that the dispute settlement system of GATT serves to preserve the rights and obligations of contracting parties under the General Agreement and to clarify the existing provisions of the General Agreement. It is a central element in providing security and predictability to the multilateral trading system.*****

... panels should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution.*

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Impartiality of panels

Panel members would serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments would therefore not give them instructions nor seek to influence them as individuals with regard to matters before a panel.*

Timetable for the panel's work

After consulting the parties, the panel members shall, as soon as practicable and whenever possible within one week after the composition and terms of reference of the panel have been agreed upon, fix the timetable for the panel process at least until its first substantive meeting.*****

In determining the timetable for the panel process, the panel shall provide sufficient time for the parties to the dispute to prepare their submissions.*****

If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible ... the timetable for the panel process in such disputes shall be harmonized.*****

Panels should aim to deliver their findings without undue delay, taking into account the obligation of the CONTRACTING PARTIES to ensure prompt settlement.*

... in examining a complaint against a developing contracting party, the panel shall accord sufficient time for the developing contracting party to prepare and present its argumentation.*****

In order to make the procedures more efficient, the period in which the panel shall conduct its examination, from the time the composition and terms of reference of the panel have been agreed upon to the time when the final report is provided to the parties to the dispute, shall, as a general rule, not exceed six months. In cases of urgency, including those relating to perishable goods, the panel shall aim to provide its report to the parties within three months.*****

In no case should the period from the establishment of the panel to the submission of the report to the contracting parties exceed nine months.*****

Working procedures

Panels set up their own working procedures. The practice for the panels has been to hold two or three formal meetings with the parties concerned. The panel invites the parties to present their views either in writing and/or orally in the presence of each other. The panel can question both parties on any matter which it considers relevant to the dispute.**

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Panel procedures should provide sufficient flexibility so as to ensure high-quality panel reports, while not unduly delaying the panel process.*****

Where written submissions are requested from the parties, panels should set precise deadlines, and the parties to a dispute should respect those deadlines.****

Each party to the dispute shall deposit its written submissions with the secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to [above] and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously.*****

Procedures for multiple complainants

Where more than one contracting party requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all parties concerned.*****

The single panel will organize its examination and present its findings to the Council so that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel will submit separate reports on the dispute concerned. The written submissions by each of the complainants will be made available to the other complainants, and each complainant will have the right to be present when one of the other complainants presents its view to the panel.*****

Interested third contracting parties

The interests of the parties to a dispute and those of other contracting parties shall be fully taken into account during the panel process.*****

Any third contracting party having a substantial interest in a matter before a panel, and having notified this to the Council, shall have an opportunity to be heard by the panel and to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report.*****

At the request of the third contracting party, the panel may grant the third contracting party access to the written submissions to the panel by those parties to the dispute which have agreed to the disclosure of their respective submission to the third contracting party.*****

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Right of the panel to seek information and advice

Each panel should have the right to seek information and technical advice from any individual or body which it deems appropriate. However, before a panel seeks such information or advice from any individual or body within the jurisdiction of a State it shall inform the government of that State. Any contracting party should respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information which is provided should not be revealed without formal authorization from the contracting party providing the information.*

Confidentiality

... the panel deliberations are secret.**

Written memoranda submitted to the panel have been considered confidential, but are made available to the parties to the dispute.**

Tasks of secretariat

The secretariat of GATT has the responsibility of assisting the panel, especially on the legal, historical and procedural aspects of the matters dealt with.***

The secretariat provides the secretary and technical services for panels.*

Drafting of the report

The reports of panels have been drafted in the absence of the parties in the light of the information and the statements made.**

The report of a panel should normally set out the rationale behind any findings and recommendations that it makes.*

The opinions expressed by the panel members on the matters are anonymous.**

Submission of the report to the parties

To encourage development of mutually satisfactory solutions between the Parties and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the CONTRACTING PARTIES.*

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Circulation of the report to the CONTRACTING PARTIES

Where the parties have failed to develop a mutually satisfactory solution, the panel should submit its findings in a written form. Where a bilateral settlement of the matter has been found, the report of the panel may be confined to a brief description of the case and to reporting that a solution has been reached.*

When the panel considers that it cannot provide its report within six months, or within three months in cases of urgency, it shall inform the Council in writing of the reasons for the delay together with an estimate of the period within which it will submit its report.*****

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

ANNEX B

Suggested Working Procedures

1. In its proceedings the Panel will be guided by the relevant provisions of the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/210); of the 1982 Ministerial Declaration (BISD 29S/13); and of the decisions on dispute settlement procedures adopted by the CONTRACTING PARTIES in November 1984 (L/5718) and in April 1989 (L/6489). In addition, the following guidelines will apply.

2. The Panel will meet in closed session. The Parties to the dispute, or other interested Parties, will be present at the meetings only when invited by the Panel to appear before it.

3. The deliberations of the Panel and the documents submitted to it will be kept confidential. For the duration of the Panel proceeding, the Parties to the dispute are requested not to release any papers or make any statements in public regarding the dispute.

4. Before the first substantive meeting of the Panel with the Parties, both Parties to the dispute are expected to transmit to the Panel written submissions in which they present the facts of the case and their arguments.

5. At its first substantive meeting with the parties, the Panel will ask the Party which has brought the complaint to present its case. Subsequently, and still at the same meeting, the Party against which the complaint has been brought will be asked to present its point of view.

6. As it may be necessary for the Parties to have time to prepare their formal rebuttals, the latter will be made at a second substantive meeting of the Panel. The Party complained against will have the right to take the floor first to be followed by the complaining Party. Both Parties are encouraged to submit, prior to that meeting, written briefs to the Panel.

7. The Panel may at any time put questions to the Parties and ask them for explanations either in the course of a meeting with the Parties or in writing.

8. The Parties to the dispute and any third contracting party invited to present its views in accordance with paragraph 15 of the 1979 Understanding (BISD 29S/213) and section F(e) of the April 1989 Decision (C/W/585) are encouraged to make available to the Panel a written version of their oral statements.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

9. In the interest of full transparency, the presentations, rebuttals and statements referred to in paragraphs 5 to 8 above will be made in the presence of both Parties. Moreover, each Party's written submissions, including any comments on the descriptive part of the report and responses to questions put by the Panel, will be made available to the other Party.

10. [Any additional procedures specific to the Panel]

11. The Panel proposes the following timetable for its work:

(a)	Receipt of first written submissions of the Parties:	[3-6 weeks][1]
	[(1) complaining Party: _____	
	(2) Party complained against:] _____	[2-3 weeks]
(b)	Date, time and place of first substantive meeting with the Parties: _____	[1-2 weeks]
(c)	Receipt of written rebuttals of the Parties: _____	[2-3 weeks]
(d)	Date, time and place of second substantive meeting with the Parties: _____	[1-2 weeks]
(e)	Submission of descriptive part of the report to the Parties: _____	[3-6 weeks]
(f)	Receipt of comments by the Parties on the descriptive part of the report: _____	[2 weeks]
(g)	Submission of the final report, including the findings and conclusions, to the Parties: _____	[2-6 weeks]
(h)	Circulation of the report to the CONTRACTING PARTIES: _____	[2-4 weeks]

The above calendar may be changed in the light of unforeseen developments. Additional meetings with the Parties will be scheduled if required.

[1]For the convenience of the Panel, the intervals between the various procedural steps found to be appropriate in many previous cases are indicated in this column.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

III. TABULAR LISTS OF GATT ARTICLE XXIII COMPLAINTS[1]

1. Chronological list of Article XXIII complaints[2]

[1] 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. 2S/12, 35) and some complaints which were disposed of before or subsequent to consultations, are not included in the list.

[2] The column "date of complaint" refers to the date of the L/ document notifying the invocation of Article XXIII:1 or, if Article XXIII:1 was not invoked or if the invocation of Article XXIII:1 was not notified to GATT, of Article XXIII:2. If the complaining country invoked Article XXIII during a GATT Council meeting prior to the circulation of an L/ document on the matter, the date of this oral invocation of Article XXIII has been indicated. For additional information on the respective disputes (e.g. GATT Articles examined in the Panel reports) see the country list of Article XXIII complaints below.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
1.	Import restrictions	September 1948	USA/ Cuba	Working Party September 1948	Working Party report announced settlement reached among the parties and abstained from legal ruling. Import regulations were terminated in 1948.	CP.2/SR.22 CP.2/43 CP.2/SR.25
2.	Internal taxes	1949, 1950	France/ Brazil	Working Party November 1950	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.	CP.3/SR.9 II/181 2S/25 4S/21 5S/36 7S/68
3.	Export restrictions	May 1949	Czechoslovakia/ USA	CONTRACTING PARTIES May 1949	The CONTRACTING PARTIES rejected the complaint.	II/28 CP.3/SR.22
4.	Subsidy on ammonium sulphate	July 1949	Chile/ Australia	Working Party March 1950	The CONTRACTING PARTIES 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.	II/188 CP.5/SR 7S/68 CP.5/SR.6

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
5.	United Kingdom Purchase Tax	October 1950	Netherlands/ United Kingdom	CONTRACTING PARTIES December 1950	United Kingdom abolished discrimination	CP.5/12 CP.5/SR.20 G 18
6.	"Serious injury" in case of Article XIX action	November 1950	Czechoslovakia/ USA	Working Party December 1950	The CONTRACTING PARTIES adopted the Working Party report on 24 October 1951. The report found the US withdrawal of a tariff concession was not in violation of Article XIX.	CP.5/22 CP/106
7.	Family allowances	March 1951	Norway and Denmark/ Belgium	Panel October 1952	The Belgian legislation was found inconsistent with Article I (and possibly III:2) and based on a concept inconsistent with the spirit of the Agreement. The CONTRACTING PARTIES recommended to expedite changes in the legislation. Measure was terminated by a new law on 6 March 1954.	1S/59 2S/18 L/187 7S/68

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
8.	Import restrictions on dairy products	September 1951	Netherlands and Denmark/ USA	CONTRACTING PARTIES September 1951 Working Party on appropriateness of Netherlands' retaliation under Article XXIII:2 October 1952	Violation of Article XI was not contested. The USA were asked to remove restrictions within a reasonable time-limit and report further to the CONTRACTING PARTIES. Failing progress, the CONTRACTING PARTIES adopted a Decision submitted by a Working Party authorizing the Netherlands to avail itself of Article XXIII:2 benefits. Concessions were suspended by the Netherlands on wheat flour, subject to annual "determination" by the CONTRACTING PARTIES.	CP.6/26,28 II/16 1S/31,32,62 2S/28 3S/46 4S/31,99 5S/28,142 6S/14,157 7S/23,128
9.	Belgian restrictions on imports from the dollar area	February 1952	US/ Belgium	Working Party February 1952	The Working Party never convened since it was agreed to defer to IMF's arrangement for general liberalization. The restrictions were eventually terminated.	GATT/IC/7 CP.6/50 SR.7/11 SR.9/2

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
10.	Treatment of sardine imports	September 1952	Norway/ Germany	Panel October 1952	The CONTRACTING PARTIES found that the different tariff rates on competing products were not in violation of Article I but 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.	L/16 1S/30,53 SR.8/18
11.	Increase of import duties (coefficient for currency conversion)	September 1952	UK/ Greece	Panel October 1952	Recommendation of 3 November 1952 notes inconsistency of measure with Article II, para.1. Measure was rescinded 20 July 1953.	L/15 1S/23,51 SR.8/7
12.	Special import taxes ("contribution" levied on certain imports)	October 1952	France/ Greece	Panel October 1952	Decision was deferred and matter referred to CONTRACTING PARTIES for decision on principles. Measure was terminated April 1953.	1S/48 SR.8/7
13.	Statistical tax on imports and exports	November 1952	USA/ France	CONTRACTING PARTIES September 1953	Claimed violation of Article II not contested. Measure suspended 1 October 1954 and abolished as of 1 January 1955.	SR.8/7 SR.9/28

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
14.	Special temporary compensation tax on imports	July 1954	Italy/ France	CONTRACTING PARTIES, Working Party January 1955	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.	L/213,366, 406,412,585, 622,643,657, 671 3S/26, 4S/20 5S/27, SR.12/5
15.	Anti-dumping duties	July 1954	Italy/ Sweden	Panel November 1954	Recommendation made to Italy and Sweden to consult. Decision deferred pending bilateral inquiry. Measure abrogated in July 1955.	L/215 3S/81 L/386 7S/69
16.	Import duties on starch and potato flour	October 1954	Benelux countries/ Germany	Panel January 1955	Following the Panel report, Germany proposed tariff concessions which were found acceptable.	L/260 3S/77 SR.9/34
17.	Luxury import tax	October 1954	Italy/ Greece	CONTRACTING PARTIES September 1955	Matter settled in consultations.	L/234 SR.9/7,30
18.	Stamp tax, increase to 2 per cent	October 1954	USA/ France	CONTRACTING PARTIES January 1955	Complaint was withdrawn.	L/245 SR.9/28

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
19.	Stamp tax, further increase to 3 per cent	September 1955	USA/ France	CONTRACTING PARTIES November 1955	French undertaking to cancel tax increase in violation of tariff bindings as soon as possible. Stamp tax reduced to 2 per cent as from 1 January 1961.	L/410 L/569,720 L/1412 SR.10/5 C/M/4
20.	US (Hawaiian) Regulations affecting imported eggs	September 1955	Australia/ USA	CONTRACTING PARTIES November 1955	Discussion was deferred pending State court legal action. The court invalidated the regulation requiring "We sell Foreign eggs" sign as violating Article III.	L/411 SR.10/13
21.	Increase in bound duties (long-playing records)	November 1956	Germany/ Greece	Group of Experts November 1956	Following the report of customs experts, the parties agreed on a compromise duty rate in November 1957. Germany then withdrew the complaint.	L/575 L/580 L/765 SR.12/21
22.	Exports of subsidized eggs	April 1957	Denmark/ UK	Intersessional Committee and Panel April 1957	Panel appointed, but never met due to settlement of complaints over violation of Article XVI.	L/627 IC/SR.31 IC/SR.34

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
23.	Discrimination against imported agricultural machinery	July 1957	UK/ Italy	Panel May 1958	Recommendation to eliminate adverse effects of farmers' credit facilities which were found to be contrary to Article III. Agreement between parties reached in November 1958. Matters subsequently discussed in seventeenth session.	L/649 7S/23,60 SR.13/18 L/1294 SR.17/5
24.	Discrimination against imported agricultural machinery	October 1957	UK/ France	CONTRACTING PARTIES October 1957	Discrimination removed with retroactive effect.	SR.12/5 SR.13/7
25.	Assistance to exports of wheat	April/May 1958	Australia/ France	Panel April 1958	The export subsidies were found to violate Article XVI. 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.	7S/22,46 L/1323 L/1548 SR.13/8
26.	Assistance to exports of flour	September 1958	Australia/ Italy	Panel November 1958	Settled on basis of revised subsidy programme.	L/853 IC/SR.41 SR.13/17

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
27.	UK preference on ornamental pottery	March 1959	Germany/ United Kingdom	Panel March 1959	The Panel could not establish that the proposed increase of margin of preference would divert trade contrary to the terms of earlier waiver.	IC/SR/44 SECRET 105
28.	Recourse to Article XXIII (Primary products)	November 1961	Uruguay/ 15 developed countries	Panel February 1962	Panel made recommendations addressed to seven countries. The countries reported back, in 1963, on their compliance with GATT. Panel then made recommendation to give immediate consideration to removal of certain impairing or nullifying measures.	L/1647 L/1662 11S/95,56 13S/35,45
29.	Increase in margin of preferences on bananas	December 1961	Brazil/ UK	Panel February 1962	Council took note of Panel report of 11 April 1962. Following the Panel ruling, the proposed tariff increase was abandoned in October 1962.	L/1749 C/M/10 SR.19/12 SR.20/2
30.	Imports of potatoes (Value for duties)	November 1962	USA/ Canada	Panel November 1962	CONTRACTING PARTIES recommended that Canada withdraw the additional charge or effect satisfactory adjustment of the impaired benefit. Measure abolished 2 January 1963.	SR.20/8 11S/55,88 L/1968

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
31.	Import restrictions	November 1962	USA/ France	Panel November 1962	CONTRACTING PARTIES recommended that France withdraw the quotas which were found to violate Article XI. 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.	11S/55,94 L/3744 C/M/80.81,83
32.	US action under Article XXVIII (negotiations on poultry)	October 1963	US/ EEC	Panel (to render an advisory opinion to the two parties concerned) October 1963	Panel report of 21 November 1963. The US complied with the Panel conclusions.	L/2088 12S/65
33.	Administrative and statistical fees	December 1969	USA/ Italy	Council December 1969	During the Council discussion, the USA reserved its right to revert to the matter again.	L/3279 C/M/59

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
34.	Import restrictions on grains	September 1970	USA/ Denmark		Notification received by the Council. Parties reached an agreement in October 1970.	L/3436
35.	Margins of preference	September 1970	USA/ Jamaica	Panel September 1970	Following the 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.	18S/33 18S/183 L/3485
36.	Compensatory taxes on imports	June 1972	USA/ EEC	Council July 1972	Compensatory taxes on large number of items abolished. US agreed to defer further action.	L/3715 and Add.1 C/W/80
37.	Restrictions on cotton textiles	September 1972	Israel/ UK	Panel October 1972	Parties reached an agreement in January 1973.	L/3741 L/3812 20S/237 C/M/84

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
38.	Dollar area quotas	October 1972	USA/ UK	Panel December 1972	Panel report adopted on 30 July 1973. Parties reached agreement on phasing-out of quotas.	20S/230,236 L/3753 L/3843 L/3890 L/3891
39.	Tax legislation (DISC)	May 1973	EEC/US	Panel July 1973	Report presented to the Council on 12 November 1976. Council adopted the report on 7-8 December 1981 and agreed to an "understanding" (C/M/154). The DISC legislation was amended in 1984.	L/3851 23S/98 28S/114 C/M/87,89, 110,112,117, 119,120,122, 123,124,149, 151-154,159, 161,165,166, 168,170,171, 180
					Follow-up of DISC	L/5716 C/M/183
40.	Income tax practices	May 1973	USA/France	Panel July 1973	Reports presented to the Council on 12 November 1976. Council adopted the reports on 7-8 December 1981 and agreed to an "understanding" (C/M/154).	L/3860 23S/114 23S/127 23S/137 28S/114 C/M/87,89, 110,112,117, 119,120,122- 124,145,146, 148,149,151- 154
41.	Income tax practices	May 1973	USA/Belgium	Panel July 1973		
42.	Income tax practices	May 1973	USA/ Netherlands	Panel July 1973		

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
43.	Article XXIV:6 negotiations with the EEC	November 1974	Canada/EEC	Panel November 1974	Panel never met due to agreement reached between the parties in March 1975.	L/4107 C/M/101,102, 105 C/W/250,251
44.	Import quotas on eggs	September 1975	USA/ Canada	Working Party September 1975	Working Party report adopted on 17 February 1976. Canada increased certain quotas.	L/4222 23S/91 L/4319
45.	Minimum import prices, licences and surety deposits for certain processed fruits and vegetables	April 1976	US/EEC	Panel July 1976	The Panel report, which found that the minimum import price and associated security system for tomato concentrates violated Article XI, was adopted by the Council on 18 October 1978.	C/M/113, 114,115,117, 124,128 25S/68
46.	Import deposits for animal feed proteins	April 1976	US/EEC	Panel September 1976	The Panel report, which found various measures in violation of Article III, was adopted by the Council on 14 March 1978.	C/M/113,115, 116,119,124 25S/49

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
47.	Withdrawal of tariff concessions under Article XXVIII:3	October 1976	EEC/Canada	Panel November 1976	The Panel report, which concluded that Canada was entitled to proceed to a withdrawal of concessions, was adopted by the Council on 17 May 1978.	L/4432 C/M/117,119, 125-128 25S/42
48.	Import restrictions on thrown silk yarn	July 1977	US/Japan	Panel July 1977	Panel report, adopted on 17 May 1978, notes that parties arrived at bilateral solution.	L/4530 C/M/122,123 125 25S/107
49.	Export refunds on malted barley	November 1977	Chile/EEC	Council and good offices of the Director-General (matter not pursued by Chile) November 1977		C/M/116,123, 125
50.	Restrictions on imports of textiles from Hong Kong	May 1978	UK on behalf of Hong Kong/ Norway	Panel July 1979	The Panel report, which found Norway's Article XIX action not consistent with Article XIII, was adopted by the Council on 18 June 1980.	L/4959 27S/119 C/M/125-128, 134,135,139, 141,143,144

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
51.	Restraints on imports of leather	July 1978	USA/Japan	Panel January 1979	Panel report, adopted on 6 November 1979, notes bilateral settlement and withdrawal of complaint.	L/4691 C/M/127,128, 132-136,139, 144 26S/320
52.	Refunds on exports of sugar	September 1978	Australia/EEC	Panel November 1978	The Panel report which found, inter alia, that the EEC system of export refunds for sugar constitutes a threat of prejudice in terms of Article XVI:1, was adopted on 6 November 1979. The possibility of limiting EEC subsidization of sugar exports was subsequently discussed in two working parties.	L/4701 26S/290 28S/80 29S/82 L/5113,5121, 5175,5185, 5186,5294 C/M/128-130, 132,135,138, 139,143,144, 146,148-150
53.	Refunds on exports of sugar	November 1978	Brazil/EEC	Panel November 1978	The Panel report which found, inter alia, that the EEC system of export refunds for sugar constitutes a threat of prejudice in terms of Article XVI:1, was adopted on 10 November 1980. The possibility of limiting EEC subsidization of sugar exports was subsequently discussed in two working parties.	L/4722 27S/69 28S/80, 29S/82, C/M/130,132 135,138,139, 143,144,146, 148-150

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
54.	Import restrictions on apples from Chile	June 1979	Chile/EEC	Panel November 1979	The Panel report, which found the EEC measures not in conformity with Article XIII, was adopted on 10 November 1980.	L/4805,4807, 4816, 27S/98 C/M/134,135, 138,144
55.	Restrictions on imports of leather	October 1979	Canada/Japan	Panel November 1979	Panel report, adopted on 10 November 1980, notes that Canada and Japan agreed on a solution to the matter.	L/4856 27S/118
56.	Restrictions on domestic sale of soyabean oil	November 1979	US/Spain	Panel January 1980	Council took note of the report and of the statements made on 3 November 1981.	L/4859 L/5142 L/5161,5188 C/M/136,138, 139,148,149, 151,152
57.	Restraints on imports of manufactured tobacco	November 1979	US/Japan	Panel November 1979	The Panel report, which notes that the US and Japan agreed on a solution to the matter, was adopted on 11 June 1981.	L/4871, 28S/100 C/M/136,139, 148

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
58.	US - Prohibition of imports of tuna and tuna products	January 1980	Canada/US	Panel March 1980	The Panel report, which found the import restrictions not in conformity with Article XI, was adopted on 22 February 1982.	L/4931, 29S/91 C/M/138,139, 141,144, 154-157,159
59.	Spain - Tariff treatment of unroasted coffee	6 May 1980	Brazil/Spain	Panel June 1980	The Panel report, which found the tariff régime not in conformity with Article I, was adopted on 11 June 1981.	L/4974, 28S/102 C/M/135,136, 138,139,141, 143,148,151
60.	EEC - Imports of beef from Canada	6 June 1980	Canada/EEC	Panel June 1980	The Panel report, which found the EEC measures inconsistent with Articles I and II, was adopted on 10 March 1981.	L/4987, 28S/92 C/M/139,141, 143,146

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
61.	EEC - Imports of poultry from the United States	September 1980	US/EEC	Panel October 1980	Panel report, adopted on 11 June 1981, indicates that complaint was withdrawn in May 1981 (L/5149).	L/5033, L/5040, L/5149, 28S/90, C/M/143,145, 148
62.	US - Imposition of countervailing duties without injury criterion	November 1980	India/US	Panel November 1980	Panel report, adopted on 3 November 1981, indicates that complaint was withdrawn in September 1981 (L/5062/Add.1).	L/5028 L/5062 28S/113 C/M/143,144, 148,149,152
63.	US - Import duty on vitamin B12, feed-grade quality	1 June 1981	EEC/US	Panel June 1981	The Panel report, which concluded that the US had not infringed any GATT provision, was adopted on 1 October 1982.	L/5129,5157 29S/110 C/M/148-150, 159-161,166

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
64.	EEC - Production subsidies on canned fruit	11 June 1981	Australia/EEC	(Australia intervened in the subsequent panel proceeding infra note 67)		L/5167,5224 C/M/148,149
65.	US - Imports of automotive spring assemblies	September 1981	Canada/US	Panel December 1981	Panel report found no violation of GATT provisions. The Panel report was adopted on 26 May 1983 subject to an understanding (C/M/168)	L/5195+Add.1 L/5333 C/M/151,152, 154,155, 159-162,165, 167,168
66.	EEC - Quantitative restrictions against imports from Hong Kong	December 1981 (recourse to Art. XXIII:1) September 1982 (recourse to Art. XXIII:2)	United Kingdom on behalf of Hong Kong/ EEC	Panel October 1982	The Panel report, which found the French import restriction to violate Article XI, was adopted on 12 July 1983. Quantitative restrictions on three product categories were removed in November 1983. In 1984, the EEC invoked Article XIX in respect of quartz watches. Additional liberalizing measures were announced in November 1984.	L/5362 C/M/154,161 165,170,171 173 30S/129 C/M/173,174, 178 SR.40/2, p.7

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
67.	EEC - Production aids on canned peaches, canned pears, canned fruit cocktail and dried grapes	March 1982	US/EEC	Panel March 1982	The 1985 Panel report, which was not adopted by the GATT Council, concluded that the EEC production aids on peaches and pears nullified or impaired benefits accruing to the US from tariff concessions granted by the EEC under Article II. The Parties agreed on a settlement of the dispute.	L/5306 C/M/156,159, 186-188, 190-192,194, 195 L/5778
68.	Canada - Administration of the Foreign Investment Review Act (FIRA)	March 1982	US/Canada	Panel March 1982	The Panel report which found, inter alia, that certain purchase undertakings were inconsistent with Article III, was adopted on 7 February 1984.	L/5803 C/M/156,160, 162,171,173, 174 30S/140

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

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No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
69.	EEC - sugar régime	April 1982	Argentina, Australia, Brazil, Colombia, Cuba, Dominican Republic, India, Nicaragua, Peru Philippines/ EEC States	Consultations pursuant to Art. XXIII:1	Council took note of the statement that complainants reserve their rights under GATT.	L/5309+Add. C/M/161

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
70.	EEC - Tariff treatment on imports of citrus products from certain Mediterranean countries	June 1982	US/EEC	Panel November 1982	The 1985 Panel report, which has not been adopted by the GATT Council, did not pass judgement on the conformity of the EC agreements with Article XXIV. The Panel found that the EC tariff preferences on fresh oranges and fresh lemons accorded to certain Mediterranean countries had impaired benefits accruing to the US under Article I:1 in the sense of Article XXIII:1(b). The Parties agreed on a settlement of the dispute.	L/5337 L/5339 C/M/159-162, 167,168,170, 186,190 L/5776
71.	Finland - Internal regulations having an effect on imports of certain parts of footwear	September 1982	EEC/Finland	Panel established in November 1932 (Matter not pursued by the EEC)		L/5369 L/5394 C/M/161,162

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
72.	Switzerland - Imports of table grapes	October 1982	EEC/Switzerland	Article XXIII:1 consultations (Matter not pursued)		L/5371
73.	EEC - Import restrictive measures on video tape recorders	December 1982	Japan/EEC	Article XXIII:1 consultations (Matter not pursued following a bilateral agreement)		L/5427 C/M/162
74.	Japan - Measures on imports of leather	January 1983	US/Japan	Panel April 1983	The Panel report, which found the Japanese import restrictions inconsistent with Article XI, was adopted on 15/16 May 1984.	L/5440,5462 C/M/166,167 170,176,178, 183,186,187, 190,191 31S/94
75.	US - "Manufacturing clause" in US copyright legislation	September 1982	EEC/US	Panel April 1983	The Panel report, which found the US import restriction inconsistent with Article XI, was adopted on 15/16 May 1984.	L/5467 C/M/160,167, 170 31S/74
76.	Japan - nullification or impairment of benefits and impediment to the attainment of GATT objectives	April 1983	EEC/Japan	Article XXIII:1 consultations. Request for a GATT Working Party not pursued.		L/5479 C/M/167

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
77.	US - Imports of sugar	May 1983	Nicaragua/USA	Panel July 1983	The Panel report, which found the sugar quota allocated to Nicaragua inconsistent with Article XIII was adopted on 13 March 1984.	L/5492 C/M/168,170, 171,176,178, 183 31S/67
78.	US - Reclassification of machine-threshed tobacco	September 1983	EEC/USA	Article XXIII:1 consultations (Matter not pursued)		L/5541
79.	EEC - Imports of newsprint from Canada	January 1984	Canada/EEC	Panel March 1984	The Panel report, which found the EEC import quota inconsistent with Article II, was adopted on 20 November 1984.	L/5589,5628 C/M/176,183 31S/114
80.	Chile - Import measures on certain dairy products	May 1984	EEC/Chile	Article XXIII:1 consultations (Matter not pursued)		L/5653

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
81.	Canada - Discriminatory application of Retail Sales Tax on Gold Coins	July 1984	South Africa/ Canada	Panel November 1984	The Panel report of September 1985, which has not yet been adopted by the Council, recommends that the CONTRACTING PARTIES request Canada to (a) continue to take such measures as are available to it to secure the observance of Article III:2 by the Province of Ontario in accordance with Article XXIV:12 and (b) compensate South Africa for the competitive opportunities lost as a result of the Ontario measure until its efforts in accordance with Article XXIV:12 have secured the withdrawal of the measure. The differential fiscal treatment in Ontario was removed in January 1986 and the Parties agreed on a settlement.	L/5662,5711 C/M/183,192, 194,195, 198 L/5863
82.	New Zealand - Imports of electrical transformers from Finland	July 1984	Finland/ New Zealand	Panel October 1984	The Panel report, adopted on 17-19 July 1985, found the imposition of anti-dumping duties not to be consistent with Article VI:6(a). New Zealand removed the anti-dumping duty in 1985.	L/5682 C/M/180, 181,183,191 32S/55

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
83.	EEC - Operation of its beef and veal régime	October 1984	Australia/ EEC	Article XXIII:1 consultations (Matter not pursued)		L/5715 C/M/183
84.	US - Ban on imports of steel pipes and tubes from the EC.	December 1984	EEC/USA	Council	Council took note of the conclusion of a bilateral arrangement in January 1985.	L/5747/Add.2 C/M/184,185 L/5773
85.	Canada - Import distribution and sale of alcoholic drinks by provincial marketing agencies	February 1985	EEC/ Canada	Panel March 1985 (Composition of Panel announced in December 1986)	Panel Report, adopted March 1988, found that Canada was in contravention of its GATT obligations under Articles II, XI and XXIV:12	L/5777,6304 C/M/186,195, 217,218, 227
86.	US - Restrictions on imports of certain sugar-containing products	March 1985	Canada/ USA	Panel March 1985 (Matter not pursued)		L/5783 C/M/186

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
87.	Japan - Quantitative restrictions on imports of leather footwear	July 1985	USA/ Japan	Panel July 1985 (Matter not pursued)		L/5826 + Add.1 C/M/191
88.	US - Trade measures affecting Nicaragua	July 1985	Nicaragua/ USA	Panel October 1985	Given the limited terms of reference of the Panel, the Panel report of October 1986 did not make a finding on whether the trade embargo was justified under Article XXI and had nullified or impaired benefits in terms of Article XXIII.	C/M/188,190, 191,192,195, 196,204,205, 206,207,208, 209,212,213, 215 L/6053
89.	US - Restrictions on imports of cotton pillowcases and bedsheets	September 1985	Portugal/ USA	Article XXIII:1 consultations (Matter not pursued)		L/5859
90.	EC - Ban on importation of skins of certain seal pups and related products	December 1985	Canada/ EEC	Article XXIII:1 consultations (Matter not pursued)		L/5940

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
91.	United States - imports of non-beverage ethyl alcohol from Brazil	May 1986	Brazil/US	Article XXIII:1 consultations (Matter not pursued)		L/5993
92.	Japan - Restrictions on imports of certain agricultural products	August 1986	US/Japan	Panel October 1986	Panel report, adopted March 1988, found Japanese measures in contravention of its GATT obligations under Article XI:1	L/6037,6253 C/M/201,202 205,206,217, 218,219,220, 222,235 C/145
93.	Japan - Customs duties, taxes and labelling practices on imported wines and alcoholic beverages	October 1986	EEC/Japan	Panel February 1987	Panel report, adopted in November 1987, found Japanese taxes on certain imported alcoholic beverages not in conformity with its GATT obligations under Article III:2	L/6078,6216, 6465 C/M/204,205, 206,215,217, 218,228 34S/83
94.	Japan - Restrictions on imports of herring, pollock and surimi	October 1986	US/Japan	Council November 1986		L/6070 C/M/204,205, 206,207

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
95.	Canada - Restrictions on exports of unprocessed uranium	December 1986	US/Canada	Article XXIII:1 consultations		L/6104
96, 97, 98	US - Tax on petroleum and certain imported substances	January 1987	Canada, EEC and Mexico/ US	Panel February 1987	Panel report, adopted June 1987, found US tax on imported petroleum inconsistent with Article III:2. Canada and EEC seek withdrawal of concessions under XXIII:2 in 1989	L/6114,6121, 6123,6175 C/M/202,206, 211,213,217, 218,220,222, 223,224,226, 227,228,231, 232,234,235, C/W/540 and Add.1 34S/136
99.	US - Customs user fee	February 1987	Canada and EEC/US	Panel March 1987	Panel report, adopted in March 1988, found the US merchandise processing fee inconsistent with GATT obligations under Articles II:2(c) and VIII:1(a)	L/6130,6264 6131 C/M/207,208, 217
100.	Japan - Agreement Regarding Trade in Semi-Conductors	February 1987	EEC/Japan	Panel April 1987	Panel report, adopted in June 1988, found Japanese measures inconsistent with Article XI:1. However, measures to improve access to its market for US products were not found to be discriminatory	L/6129,6309 C/M/202,207, 208,209,211, 219,220,226, 227,228,230, 234

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
101.	Canada - Restrictions on exports of unprocessed salmon and herring	February 1987	US/Canada	Panel March 1987	Panel report, adopted April 1988, found Canadian export prohibitions contrary to Article XI:1	L/6132,6268 C/M/208,217 218,220,227, 228,231,232
102.	US - Tax reform legislation for small passenger aircraft	April 1987	EEC/US	Article XXIII:1 consultations April 1987	Request for a GATT panel not pursued; relevant United States legislation had lapsed and would not be renewed.	L/6153 C/M/208, 209
103.	US - Section 337 of the United States Tariff Act of 1930	April 1987	EEC/US	Panel October 1987	Panel report, tabled November 1988, found S.337 inconsistent with Article III:4	L/6160,6439, 6487,6500, 6529 C/M/213,215, 228,230,231, 232,235
104.	US - Restrictions on certain Japanese products	April 1987	Japan/US	Article XXIII:1 consultations		L/6159 C/M/208,211, 213,215,227

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
105.	India - Import restrictions on almonds	June 1987	US/India	Panel November 1987	US withdrew complaint after bilateral settlement	C/M/211,212, 213,215,218 L/6197 C/154 + Add.1
106.	EEC - Enlargement of EEC	June 1987	Argentina/EEC	Council July 1987	Request for Panel not pursued following bilateral consultations	L/6201 C/M/212,213
107.	EEC - Third country meat directive	October 1987	US/EEC	Council October 1987		C/M/213,215
108.	Japan - Imports of SPF dimension lumber	November 1987	Canada/Japan	Panel March 1988	Panel report, adopted July 1989, found Japanese tariffs on dimension lumber not inconsistent with Article I:1	L/6262,6315, 6470,6528 C/M/218,222, 232,234,235
109.	US - Tariff increases and import prohibitions on products from Brazil	November 1987	Brazil/US	Article XXIII:1 consultations and request for good offices by Director-General		L/6274+Add.1

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
110.	EEC - Implementation of harmonized system	November 1987	Argentina/EEC	Article XXIII:1 consultations		C/M/215
111.	Norway - Restrictions on imports of apples and pears	November 1987	US/Norway	Panel March 1988	Panel report, adopted June 1989, found Norwegian import restrictions inconsistent with GATT obligations under Article XI:1 and were not exempted under para. 1(b) of the Protocol of Provisional Application	L/6311,6474, 6491 C/M/218,222, 232,234
112.	Japan - Copper trading practices in Japan	Joint request for conciliation in December 1987 following bilateral consultations under Article XXII	EEC/Japan	Conciliation by Director-General under 1979 Understanding, para. 8 (BISD 26S/210)	Good Offices Report by Personal Representative of Director-General 8 January 1989	SR.43/4 L/5286,5627, 6456 C/M/223,229
113.	US - Removal of GSP concessions for Chile	January 1988	Chile/US	Article XXIII:1		L/6298 C/M/217-220

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
114.	Korea - Restrictions on imports of beef	February 1988	US/Korea	Panel May 1988	Panel report of May 1989 found Korean import restrictions introduced in 1984/85 to be in contravention of Article XI and that restrictions existing at the time of Korea's accession to the GATT should be phased out in accordance with Article XVIII	L/6316,6503 C/M/218,220, 223,224,234, 235
115.	Korea - Restrictions on imports of beef	March 1988	Australia/ Korea	Panel May 1988	Panel report of May 1989 found Korean restrictions introduced in 1984/85 to be in contravention of Article XI and that restrictions existing at the time of Korea's accession to the GATT should be phased out in accordance with Article XVIII	L/6332,6504 C/M/220,224, 234,235
116.	EEC - Prohibition on imports of almonds by Greece	April 1988	US/EEC	Request for GATT Panel under Article XXIII:2	Greece lifted import restrictions on 29 April 1988	L/6327 C/M/218,220

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
117.	Japan - Restrictions on imports of beef and citrus products	April 1988	US/Japan	Panel May 1988	Complaint withdrawn in July 1988 following market opening measures by Japan	L/6322/Add.1, 6370 C/M/219,220, 223
118.	Sweden - Restrictions on imports of apples and pears	April 1988	US/Sweden	Request for GATT Panel under Article XXIII:2	Matter not pursued following changes to Swedish legislation	L/6330, C/M/217,220, 226, SR.44/2
119.	US - Quality standards for grapes	April 1988	Chile/US	Article XXIII:1 consultations		L/6324+Add.1
120.	Japan - Restrictions on imports of beef	April 1988	Australia/ Japan	Panel May 1988	Complaint withdrawn in July 1988 following market opening measures by Japan	L/6333+Add.1, 6370 C/M/220,223
121.	EEC - Payments and subsidies paid to processors and producers of oilseeds and related animal feed proteins	April 1988	US/EEC	Panel June 1988		L/6328, C/M/220,222, 224

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
122.	Korea - Restrictions on imports of beef	April 1988	New Zealand/ Korea	Panel September 1988	Panel report of May 1989 found Korean restrictions introduced in 1984/85 to be in contravention of Article XI and that restrictions existing at the time of Korea's accession to the GATT should be phased out in accordance with Article XVIII	L/6354,6505 C/M/222,223, 224,226,234 235
123.	EEC - Restrictions on imports of apples	April 1988	New Zealand/ EEC	Request for Panel		L/6336,6357
124.	EEC - Import licences for dessert apples	May 1988	Chile/EEC	Panel May 1988	Panel report, adopted June 1989, found EEC restrictions inconsistent with Articles XI:1, X and XIII	L/6329,6336 6337,6339, 6491 C/M/134,135, 138,144,207, 218,220,232, 234
125.	Japan - Restrictions on imports of beef	May 1988	New Zealand/ Japan	Article XXIII:1 consultations	Complaint withdrawn in July 1988 following market opening measures by Japan	L/6340, 6355/Add.1, 6370 C/M/222

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
126.	US - Restrictions on imports of sugar	July 1988	Australia/US	Panel September 1988	Panel report, adopted June 1989, found US restrictions on importation of certain sugars in contravention of Article XI:1	L/6373,6514 C/M/222,224, 234
127.	US - Import restrictions on agricultural products based on 1955 Waiver	July 1988	EEC/US	Panel June 1989		L/6393 C/M/224,226, 227,228,230, 232,234
128.	EEC - Import restrictions on apples from the United States	July 1988	US/EEC	Panel September 1988	Panel report, adopted in June 1989, found EEC restrictions in contravention of Articles XI:1, X and XIII	L/6371,6513 C/M/223,224 226,234
129.	EEC - Regulation on imports of parts and components	July 1988	Japan/EEC	Panel October 1988		L/6381,6387, 6410 C/M/207,220, 224,226,232
130.	US - Restrictions on products from Brazil	November 1988	Brazil/US	Panel February 1989		L/6386+Add.1 C/M/224,226, 228,229,234

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
131.	US - Increase in duty on certain products from the EC	November 1988		Request for Council ruling and establishment of Panel under Article XXIII		L/6438,6469 C/M/228,229, 230,231,232, 234,235
132.	Canada - Import restrictions on ice cream and yoghurt	December 1988	US/Canada	Panel December 1988	Panel report, not yet adopted, of September 1989 found Canada's import restrictions inconsistent with Article XI	L/6445,6568 C/M/227,230 C/164
133.	US - Import prohibitions on ice cream from Canada	December 1988	Canada/US	Article XXIII:1 consultations		L/6444, C/M/227,228, 229
134.	EEC - Restrictions on exports of copper scrap	May 1989	US/EEC	Panel July 1989		L/6518 C/M/234,235 DS 5/1
135.	US - Determination under Sections 304 and 305 of the Trade Act of 1974 in respect of the EEC's subsidies for oilseeds	July 1989	EEC/US	Request for Article XXIII:1 consultations		DS 2/1

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

No.	Description of case	Date of complaint	Complaint by/ versus	Referred to	Action taken	Reference
136.	EEC - Subsidies for producers and processors of oilseeds	September 1989	Canada/EEC	Request for Article XXIII:1 consultations		DS 3/1
137.	Finland - Restrictions on imports of apples and pears	September 1989	US/Finland	Request for Article XXIII:1 consultations was later withdrawn		DS 1/2,3
138.	US - Countervailing duty on pork from Canada	September 1989	Canada/US	Request for Panel under Article XXIII:2		DS 7/1 L/6583

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

2. List of Article XXIII complaints by countries complained against

Australia

- Subsidization on ammonium sulphate

Complaint by Chile in 1949	
(See list 1, No. 4)	
Working Party report adopted on 3 April 1950	II/188
GATT Articles examined: I, III, XI, XVI, XXIII	CP.5/SR.6
Agreement reached between Australia and Chile	7S/68

Belgium

- Family allowances

Complaint by Norway and Denmark in 1951	
(See list 1, No. 7)	
Working Party report adopted on 7 November 1952	1S/59
GATT Articles examined: I, II, III, XVII	
Recommendation of 7 November 1952	2S/18
Measure examined in March 1954	7S/68

- Restrictions on imports from the dollar area

Complaint by the United States in 1952	GATT/IC/7
(See list 1, No. 9)	CP.6/50
Restrictions eventually terminated	SR.9/2

- Income tax practices

Complaint by United States in 1973	L/3860
(See list 1, No. 41)	
Panel report adopted on 7-8 December 1981	23S/127
GATT Articles examined: XVI, XXIII	28S/114
Reservation by Belgium	C/98; SR.32/1
Understanding and statements on the adoption of the panel report	28S/114

Brazil

- Internal taxes

Complaint by France in 1945	CP.3
(See list 1, No. 2)	
First Working Party report adopted on 30 June 1949	II/181
Second Working Party report adopted on 13 December 1950	II/186
GATT Article examined: III	
Resolution of 24 October 1953 and	2S/25
Resolution of 30 November 1955 urging Brazil to bring laws into conformity with the General Agreement	4S/21
Tax discrimination abolished in August 1958	7S/68; L/729

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Canada

- Imports of potatoes

Complaint by United States in 1962	SR.20/8
(See list 1, No. 30)	
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 United States in 1975	L/4222
(See list 1, No. 44)	
Working Party report adopted on 17 January 1976	23S/91
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	C/M/117; L/4432
(See list 1, No. 47)	
Panel report adopted on 17 May 1978	25S/42
GATT Article examined: XXVIII	

- Administration of the Foreign Investment Review Act

Complaint by United States in 1982	L/5308
(See list 1, No. 68)	
Panel report adopted on 7 February 1984	30S/140
GATT Articles examined: III, XI, XVIII, XX(d)	

- Discriminatory application by Ontario of retail sales tax on gold coins

Complaint by South Africa in 1984	L/5662, 5711
(See list 1, No. 81)	
Panel report (not yet adopted)	L/5863
GATT Articles examined: III, XXIII, XXIV	

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Import distribution and sale of alcoholic drinks by provincial marketing agencies

  Complaint by EEC in 1985 — L/5777
  (See list 1, No. 85)

- Restrictions on exports of unprocessed uranium

  Complaint by United States in 1986 — L/6104
  (See list 1, No. 95)

- Restrictions on exports of unprocessed salmon and herring

  Complaint by the United States in 1987
  (See list 1, No. 101) — L/6132
  Panel report adopted April 1988 — L/6268
  GATT Articles examined: XI:1, XI:2(b), XX(g)

- Restrictions on import of ice cream and yoghurt

  Complaint by the United States in 1988 — L/6444
  (See list 1, No. 132)
  Panel report of September 1989 — C/M/227, 230
  L/6568

Chile

- Import measures on certain dairy products

  Complaint by EEC in 1984 — L/5653
  (See list 1, No. 80)

Cuba

- Import restrictions

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

Denmark

- Import restrictions on grains

  Complaint by United States in 1970 — L/3436
  (See list 1, No. 34)
  Complaint was withdrawn subsequent to settlement reached in consultations — C/M/64

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

European Economic Community

- Negotiations on poultry

Common request from United States and EEC to establish a Panel to render an advisory opinion (See list 1, No. 32)	
Panel report of 21 November 1963	L/2088
The Parties complied with the Panel's conclusions	12S/65

- Compensatory taxes on imports

Complaint by United States in 1972 (See list 1, No. 36)	L/3715 + Add.1
Compensatory taxes on large number of items abolished	C/M/79
US agreed to defer further action	C/M/80

- Article XXIV:6 negotiations with the EEC

Complaint by Canada in 1974 (See list 1, No. 43)	L/4107
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 United States in 1976 (See list 1, No. 46)	C/M/113
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 United States in 1976 (See list 1, No. 45)	C/M/113
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	L/4588
(See list 1, No. 49)	C/M/116
Conciliation and good offices of Director-General	C/M/125

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Refunds on exports of sugar

Complaint by Australia in 1978	L/4701
(See list 1, No. 52)	
Panel report adopted on 6 November 1979	26S/290
GATT Article examined: XVI	
Working Party report on Article XVI:1 discussions adopted on 10 March 1981	28S/80
Working Party report adopted on 31 March 1982	29S/82
Complaint by Brazil in 1978	L/4722
(See list 1, No. 53)	
Panel report adopted on 10 November 1980	27S/69
GATT Articles examined: XVI, XXIII, XXXVI, XXXVIII	
Working Party report on Article XVI:1 discussions adopted on 10 March 1981	28S/80
Working Party report adopted on 31 March 1982	29S/82

- Import restrictions on apples

Complaint by Chile in 1979	L/4805
(See list 1, No. 54)	
Panel report adopted on 10 November 1980	27S/98
GATT Articles examined: I, II, XI, XIII, XXIII, Part IV	

- Imports of beef

Complaint by Canada in 1980	L/4987
(See list 1, No. 60)	
Panel report adopted on 10 March 1981	28S/92
GATT Articles examined: I, II, XXIII	

- Imports of poultry

Complaint by United States in 1980	L/5033
(See list 1, No. 61)	
Panel report adopted on 11 June 1981	28S/90
Complaint withdrawn	L/5149

- Quantitative restrictions against imports from Hong Kong

Complaint by United Kingdom on behalf of Hong Kong in 1981/82	L/5362
(See list 1, No. 66)	
Panel report adopted on 12 July 1983	30S/129
GATT Articles examined: XI, XIII, XXIII	

- Production subsidies on canned fruit

Complaint by Australia in 1981	L/5167
(See list 1, No. 64)	C/M/148, 149

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Production aids on canned peaches, canned pears, canned fruit cocktail and dried grapes

Complaint by United States in 1982	L/5306
(See list 1, No. 67)	
Panel report (not adopted)	L/5778
GATT Articles examined: II, XXIII	

- EEC - Sugar régime

Complaint by Argentina, Australia, Brazil, Colombia, Cuba, the Dominican Republic, India, Nicaragua, Peru and the Philippines in 1982	L/5309 + Addenda
(See list 1, No. 69)	
Council took note of the statement that complainants reserve their rights under GATT	C/M/161

- Imports of citrus fruits and products

Complaint by United States in 1982	L/5337, 5339
(See list 1, No. 70)	
Panel report (not adopted)	L/5776
GATT Articles examined: I, XXIII, XXIV	

- Import restrictive measures on video tape recorders

Complaint by Japan in 1982 (See list 1, No. 73)	L/5427

- Imports of Newsprint

Complaint by Canada in 1984	L/5589, 5628
(See list 1, No. 79)	
Panel report adopted on 6-8 and 20 November 1984	31S/114
GATT Articles examined: II, XIII, XXIII, XXVIII	

- Operation of its beef and veal régime

Complaint by Australia in 1984 (See list 1, No. 83)	L/5715

- Ban on importation of skins of certain seal pups and related products

Complaint by Canada in 1985 (See list 1, No. 90)	L/5940

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Enlargement of EEC

Complaint by Argentina in 1987	L/6201
(See list 1, No. 106)	
Request for panel not pursued following bilateral consultations	C/M/212, 215

- Third Country Meat Directive

Complaint by the United States in 1987	L/6218
(See list 1, No. 107)	
Request for Panel	C/M/213, 215

- Implementation of Harmonized System

Complaint by Argentina in 1987	
(See list 1, No. 110)	
Consultations under Article XXIII:1	C/M/215

- Restrictions on imports of almonds into Greece

Complaint by the United States in 1988	C/M/218, 220
(See list 1, No. 116)	
Request for Panel under Article XXIII:2	L/6327
Greece lifted import restrictions in April 1988	

- Subsidies on oilseeds and related animal feed proteins

Complaint by the United States in 1988	L/6328
(See list 1, No. 121)	
Panel set up June 1988	C/M/222, 224

- Restrictions on imports of apples

Complaint by New Zealand in 1988	
(See list 1, No. 123)	
Request for Panel	L/6336, 6357

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Restrictions on imports of apples

Complaint by Chile in 1988	L/6329, 6336
(See list 1, No. 124)	
Panel report adopted June 1989	L/6491, C/M/232
GATT Articles referred to: XI:2(c)(i), XI:2(c)(ii), XIII:2, XIII:3(b) and (c), X:1, XXXVIII:1(b)	

- Restrictions on imports of apples

Complaint by the United States in 1988	L/6371
(See list 1, No. 128)	
Panel Report June 1989	L/6513
GATT Articles referred to: XI:1, XI:2(c)(i), XI:2(c)(ii), X:1, XIII:3(c), XXIII	

- Restrictions on imports of parts and components

Complaint by Japan in 1988	L/6387, 6410
(See list 1, No. 129)	
Panel set up November 1988	C/M/224

- Restrictions on exports of copper scrap

Complaint by the United States in 1989	L/6518
(See list 1, No. 134)	
Panel established July 1989	C/M/234, 235

- Subsidies for producers and processors of oilseeds

Complaint by Canada in 1989	
(See list 1, No. 136	
Request for Article XXIII:1 consultations	DS 3/1

Finland

- Internal regulations having an effect on imports of certain parts of footwear

Complaint by the EEC in 1982	L/5369, 5394
(See list 1, No. 71)	

- Restrictions on imports of apples and pears

Complaint by United States in 1989	
(See list 1, No. 137)	
Request for Article XXIII:1 consultations	DS 1/2
Request withdrawn	DS 1/3

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

France

- Statistical tax on imports and exports

Complaint by United States in 1952	SR.8/7
(See list 1, No. 13)	
Tax abolished as of 1 January 1955	SR.9/28

- Special temporary compensation tax on imports

Complaint by Italy in 1954	L/213
(See list 1, No. 14)	
Decisions of CONTRACTING PARTIES of 17 January 1955, of 30 November 1955 and of 16 November 1956 urging removal of tax	3S/26; 4S/20; 5S/27
Interim report of the Working Party of 8 August 1957	L/657
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.	L/671 IC/SR.34/7 SR.12/5

- Stamp tax, increase to 2 per cent

Complaint by United States in 1954	L/245
(See list 1, No. 18)	
Complaint withdrawn	SR.9/28

- Stamp tax, further increase to 3 per cent

Complaint by United States in 1955	L/410
(See list 1, No. 19)	
French undertaking to cancel increase as soon as possible	L/569, 720
Stamp tax reduced to 2 per cent as from 1 January 1961	L/1412

- Discrimination against imported agricultural machinery

Complaint by United Kingdom in 1957	SR.12/5
(See list 1, No. 24)	
Discrimination removed with retroactive effect	SR.13/7

- Assistance to exports of wheat flour

Complaint by Australia in 1958	IC/SR.38/12
(See list 1, No. 25)	
Panel report adopted on 21 November 1958	7S/46
GATT Articles examined: XVI:3	
Recommendation of 21 November 1958	7S/22
Agreement reached between the parties in April 1960	L/1323, 1548

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Import restrictions

Complaint by United States in 1962	SR.20/8
(See list 1, No. 31)	
Panel report adopted on 14 November 1962	11S/94
GATT Articles examined: XI, XII	
Recommendation of 14 November 1962	11S/55
Certain restrictions were removed by France.	C/M/80
Matter was eventually not pursued	C/M/81, 83

- Income tax practices

Complaint by United States in 1973	L/3860
(See list 1, No. 40)	
Panel report adopted on 7-8 December 1981	23S/114; 28S/114
GATT Articles examined: XVI, XXIII	
Reservation by France	C/[illegible]
Understanding and statements on the adoption	C/M/154
of the Panel report	28S/114

Germany

- Treatment of sardines imports

Complaint by Norway in 1952	L/16
(See list 1, No. 10)	
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	L/260
(See list 1, No. 16)	
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 United Kingdom in 1952	L/15
(See list 1, No. 11)	
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	SR.8/7
conversion was restored	7S/69

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Special import taxes

Complaint by France in 1952	SR.7/8
(See list 1, No. 12)	
Panel report adopted on 3 November 1952	1S/48
GATT Articles examined: II, III	
Measure terminated in April 1953	SR.8/7
	7S/69

- Luxury tax

Complaint by Italy in 1954	L/234
(See list 1, No. 17)	
Matter settled in consultations	SR.9/7, 30

- Increase in bound duties

Complaint by Germany in 1956	L/575
(See list 1, No. 21)	
Report of Group of Experts	L/580
Settlement reached and complaint withdrawn	
in November 1957	L/765, SR.12/21

India

- Import restrictions on almonds

Complaint by the United States in 1987	L/6197
(See list 1, No. 105)	
Panel established in November 1987	
US withdrew complaint after bilateral settlement	C/M/211, 215

Italy

- Discrimination against imported agricultural machinery

Complaint by United Kingdom in 1957	L/649
(See list 1, No. 23)	
Panel report adopted on 23 October 1958	7S/60
GATT Articles examined: III, XXIII	
Recommendation of 23 October 1958	7S/23
Agreement reached	SR.13/18
Matter raised again by the United Kingdom in 1960	L/1294
Retained on agenda	SR.17/5

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Assistance to exports of flour

Complaint by Australia in 1958	L/853
(See list 1, No. 26)	
Matter referred to panel but agreement reached in bilateral discussions	SR.13/17 IC/SR.41

- Administrative and statistical fees

Complaint by the United States in 1969	L/3279
(See list 1, No. 33)	
During the Council discussion, the United States reserved the right to revert to the matter	C/M/59

Jamaica

- Increase in margins of preference

Complaint by United States in 1970	L/3440
(See list 1, No. 35)	
Panel report adopted on 2 February 1971	18S/183
GATT Article examined: XXVI	
(Panel 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	18S/33

Japan

- Import restrictions on thrown silk yarn

Complaint by United States in 1977	L/4530
(See list 1, No. 48)	
Panel report adopted on 17 May 1978 indicating that parties have arrived at a bilateral solution	25S/107

- Restraints on imports of leather

Complaint by United States in 1978	L/4691
(See list 1, No. 51)	
Panel report adopted on 6 November 1979 notes that United States was withdrawing the complaint subsequent to bilateral settlement reached	26S/320

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Restrictions on imports of leather

Complaint by Canada in 1979	L/4856
(See list 1, No. 55)	
Panel report adopted on 10 November 1980 notes that parties agreed on a solution to the matter	27S/118

- Restraints on imports of manufactured tobacco

Complaint by United States in 1980	L/4871
(See list 1, No. 57)	
Panel report, adopted 11 June 1981, notes bilateral settlement and withdrawal of complaint	28S/100

- Measures on imports of leather

Complaint by United States in 1983	L/5440, 5462
(See list 1, No. 74)	
Panel report adopted on 15/16 May 1984	31S/94
GATT Articles examined: II, X, XI, XIII	

- Nullification or impairment of benefits

Complaint by EEC in 1983	L/5479
(See list 1, No. 76)	

- Restrictions on imports of leather footwear

Complaint by United States in 1985	L/5826
(See list 1, No. 87)	

- Restrictions on imports of certain agricultural products

Complaint by United States in 1986	L/6037
(See list 1, No. 92)	
Panel report adopted March 1988	L/6253
GATT Articles examined: XI:1, XI:2(c)(i), XX(d)	

- Customs duties, taxes and labelling practices on imported wines and alcoholic beverages

Complaint by EEC in October 1986	L/6078
(See list 1, No. 93)	
Panel report adopted November 1987	L/6465, 34S/83
GATT Articles examined: III:1, III:2, IX:6	

- Restrictions on imports of herring, pollock and surimi

Complaint by United States in October 1986	L/6070
(See list 1, No. 94)	

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Bilateral agreement regarding trade in semi-conductors

Complaint by EEC in February 1987	L/6129
(See list 1, No. 100)	L/6309
Panel report adopted June 1988	
GATT Articles examined: I, VI, X, X:1, XVII:1(c)	

- Restrictions on imports of SPF dimension lumber

Complaint by Canada in 1987	L/6315
(See list 1, No. 108)	
Panel report adopted July 1989	L/6470
GATT Articles examined: I:1	

- Copper trading practices in Japan

Joint request for conciliation in 1987	L/5286, 5627
(See list 1, No. 112)	
Conciliation Report January 1989	SR.43/4
	L/6456

- Restrictions on imports of beef and citrus products

Complaint by the United States in 1988	L/6262, 6322+Add.1
(See list 1, No. 117)	
Complaint withdrawn in July 1988	C/M/220, 223
following market-opening measures by Japan	

- Restrictions on imports of beef

Complaint by Australia in 1988	L/6333, 6370
(See list 1, No. 120)	
Panel set up in May 1988	
Complaint withdrawn in July 1988 following	
market-opening measures by Japan	C/M/220, 223

- Restrictions on imports of beef

Complaint by New Zealand in 1988	L/6340
(See list 1, No. 125)	
Article XXIII:1 consultations	
Complaint withdrawn following market opening	L/6355
measures by Japan	

Korea

- Restrictions on imports of beef

Complaint by the United States in 1988	L/6316
(See list 1, No. 114)	
Panel report May 1989	L/6503
GATT Articles examined: II, X, XI, XIII,	
XV:2, XVIII	

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Restrictions on imports of beef

Complaint by Australia in 1988	L/6332
(See list 1, No. 115)	
Panel report May 1989	L/6504
GATT Articles examined: II, X, XI, XIII, XV:2, XVIII	

- Restrictions on imports of beef

Complaint by New Zealand in 1988	L/6354
(See list 1, No. 122)	
Panel report June 1989	L/6505
GATT Articles examined: II, X, XI, XIII, XVIII	

Netherlands

- Income tax practices

Complaint by United States in 1973	L/3860
(See list 1, No. 42)	
Panel report adopted on 7-8 December 1981	23S/137; 28S/114
GATT Articles examined: XVI, XXIII	
Reservation by the Netherlands	C/99
Understanding and Statements on the adoption of the Panel report	C/M/154 28S/114

New Zealand

- Imports of electrical transformers

Complaint by Finland in 1984	L/5682
(See list 1, No. 82)	
Panel report adopted on 18 July 1985	32S/55
GATT Article examined: VI	

Norway

- Restrictions on imports of certain textile products

Complaint by United Kingdom on behalf of Hong Kong in 1978	L/4959
(See list 1, No. 50)	
Panel report adopted "in principle" on 18 June 1980	27S/119
GATT Articles examined: XI, XIII, XIX	

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Restrictions on imports of apples and pears

Complaint by the United States in 1987 (See list 1, No. 111)	L/6311
Panel report adopted in June 1989	L/6491, C/M/222
GATT Articles referred to: I, X, XI:2(c)(i), XI:2(c)(ii), XIII; also Protocol of Provisional Application, para. 1(b)	

Spain

- Restrictions on domestic sale of soyabean oil

Complaint by United States in 1979 (See list 1, No. 56)	L/4859
Panel report of 17 June 1981	L/5142
GATT Articles examined: III, XVII, XXIII	
Council took note of the report and of the statements made on 3 November 1981	C/M/152

- Tariff treatment of unroasted coffee

Complaint by Brazil in 1980 (See list 1, No. 59)	L/4974
Panel report adopted on 11 June 1981	28S/102
GATT Articles examined: I, II	

Sweden

- Anti-dumping duties

Complaint by Italy in 1954 (See list 1, No. 15)	L/215
Panel report adopted on 26 February 1955	3S/81
GATT Article examined: VI	
Anti-dumping regulations in question were abrogated on 10 July 1955	7S/69 L/386

- Restrictions on imports of apples and pears

Complaint by the United States in 1988 (See list 1, No. 118)	L/6330
Request for GATT Panel under Article XXIII:2	C/M/220

Switzerland

- Imports of table grapes

Complaint by the EEC in 1982 (See list 1, No. 72)	L/5371

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

United Kingdom

- United Kingdom Purchase Tax

Complaint by Netherlands in 1950	CP.5/12
(See list 1, No. 5)	CP.5/SR.20
United Kingdom abolished discrimination	G 18

- Preference on ornamental pottery

Complaint by Germany in 1959	IC/SR/44
(See list 1, No. 27)	
Panel report	SECRET 105

- Increase in margins of preferences on bananas

Complaint by Brazil in 1961	SR.19/12
(See list 1, No. 29)	
Panel report of 11 April 1962	L/1749
Council took note of Panel report	C/M/10
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	SR.20/2

- Exports of subsidized eggs

Complaint by Denmark in 1957	L/627
(See list 1, No. 22)	
Discussion by Intersessional Committee and establishment of Panel which never met due to settlement reached in September 1957	IC/SR.31 IC/SR.34

- Import restrictions of cotton textiles

Complaint by Israel in 1972	L/3741
(See list 1, No. 37)	C/M/79, 81
Panel report adopted on 5 February 1973 notes that bilateral settlement had been reached	20S/237

- Dollar area import quotas

Complaint by United States in 1972	L/3753
(See list 1, No. 38)	C/M/83
Interim panel report adopted on 30 July 1973	20S/230
Panel report, adopted on 30 July 1973, notes withdrawal of complaint following bilateral settlement reached	20S/236

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

United States

- Export restrictions

Complaint by Czechoslovakia in 1949	CP.3/SR.18
(See list 1, No. 3)	
The CONTRACTING PARTIES rejected the complaint	II/28
Suspension of obligations between Czechoslovakia and the United States	II/36

- "Serious injury" in case of Article XIX action

Complaint by Czechoslovakia	CP.5/22
(See list 1, No. 6)	
Working Party report adopted on 24 October 1951.	CP/106
The report found the withdrawal by the United States of a tariff concession not in violation of Article XIX.	CP.6/SR.19

- Import restrictions on dairy products

Complaints by the Netherlands and Denmark in 1951	CP.6/26; CP.6/28
(See list 1, No. 8)	
Resolution of 26 October 1951	II/16
Resolution of 8 November 1952	1S/31
Netherlands suspension of obligations to United States	1S/32, 62
Resolution of 13 October 1953	2S/28
Resolution of 5 November 1954	3S/46
Determination (suspension of certain obligations) of 1 December 1955	4S/31, 96
Determination (suspension of certain obligations) of 16 November 1956	5S/28, 136
Determination (suspension of certain obligations) of 28 November 1957	6S/14, 152
Determination (suspension of certain obligations) of 20 November 1958	7S/23, 124
Decision of 5 March 1955, granting a waiver to the United States in connection with import restrictions	3S/32

- Hawaiian regulations affecting imported eggs

Complaint by Australia in 1955	L/411
(See list 1, No. 20)	
Regulation invalidated	SR.10/13

- Tax legislation (DISC)

Complaint by EEC in 1973	L/3851
(See list 1, No. 39)	
Panel report presented to Council on 12 November 1976 and adopted on 7-8 December 1981	23S/98 28S/114

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Tax legislation (DISC) (cont'd)

GATT Articles examined: XVI, XXIII	
Understanding and statements on the adoption	28S/114
of the Panel report	C/M/154
Follow-up of DISC	L/5716

- Prohibition of imports of tuna and tuna products

Complaint by Canada in 1980	L/4931
(See list 1, No. 58)	
Panel report adopted on 22 February 1982	29S/91
GATT Articles examined: I, II, XI, XIII,	
XX(g), XXIII	

- Imposition of countervailing duties without injury criterion

Complaint by India in 1980	L/5028, 5062
(See list 1, No. 62)	
Panel report adopted on 3 November 1980 notes	28S/113
bilateral settlement	

- Import duty on vitamin B-12

Complaint by EEC in 1981	L/5129
(See list 1, No. 63)	
Panel report adopted on 1 October 1982	29S/110
GATT Articles examined: II, XXVIII	

- Imports of automotive spring assemblies

Complaint by Canada in 1981	L/5195 + Addenda
(See list 1, No. 65)	
Panel report adopted on 26 May 1983	30S/107
subject to an understanding	C/M/168
GATT Articles examined: III, XI, XX, XXIII	

- "Manufacturing clause" in US copyright legislation

Complaint by EEC in 1982	C/M/160
(See list 1, No. 75)	
Panel report adopted on 15/16 May 1984	31S/74
GATT Articles examined: XI, XIII and Protocol	
of Provisional Application	

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Imports of sugar

Complaint by Nicaragua in 1983	C/M/168
(See list 1, No. 77)	L/5492
Panel report adopted on 13 March 1984	31S/67
GATT Articles examined: XI, XIII	

- Reclassification of machine-threshed tobacco

Complaint by EEC in 1983	L/5541
(See list 1, No. 78)	

- Ban on imports of steel pipes and tubes from the EC

Complaint by EEC in 1984	L/5747/Add.2
(See list 1, No. 84)	

- Restrictions on imports of certain sugar-containing products

Complaint by Canada in 1985	L/5783
(See list 1, No. 86)	

- Trade measures affecting Nicaragua

Complaint by Nicaragua in 1985	C/M/191, 192
(See list 1, No. 88)	
Panel report	L/6053
GATT Articles examined: XXI, XXIII, XXV:5	

- Restrictions on imports of cotton pillowcases and bedsheets

Complaint by Portugal in 1985	L/5859
(See list 1, No. 89)	

- Imports of non-beverage ethyl alcohol

Complaint by Brazil in 1986	L/5993
(See list 1, No. 91)	

- Tax on petroleum and certain imported substances

Complaints by Canada, by the EEC and by Mexico in 1987	L/6121, L/6123, L/6114
(See list 1, No. 96, 97, 98)	
Panel report adopted June 1987	
GATT Article examined: III:2	L/6175, 34S/136

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Customs user fee

  Complaints by Canada and the EEC in 1987 — L/6130, L/6131
  (See list 1, No. 99)
  Panel report adopted March 1987
  GATT Articles examined: II:2(c), VIII:1(a)

- Tax reform legislation for small passenger aircraft

  Complaint by the EEC in 1987 — L/6153
  (See list 1, No. 102)
  Request for Panel not pursued; US legislation had lapsed — C/M/208, 209

- Section 337 of the United States Tariff Act of 1930

  Complaint by the EEC in 1987 — L/6160, 6439, 6500, 6529
  (See list 1, No. 103)
  Panel report tabled November 1988 — L/6487
  GATT Articles examined: III:2, III:4, XX(d)

- Import restrictions on certain Japanese products

  Complaint by Japan in 1987 — L/6159
  (See list 1, No. 4)

- Tariff increases and import prohibitions on products from Brazil

  Complaint by Brazil in 1987 — L/6274+Add.1
  (See list 1, No. 109)
  Consultations under Article XXIII:1 and request for good offices of Director-General

- Removal of GSP benefits for Chile

  Complaint by Chile in 1987 — L/6298
  (See list 1, No. 113)
  Consultations under Article XXIII:1 — C/M/217-220

- Quality standards for grapes

  Complaint by Chile in 1988
  (See list 1, No. 119)
  Consultations under Article XXIII:1 — L/6324+Add.1

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Restrictions on imports of sugar

Complaint by Australia in 1988	L/6373
(See list 1, No. 126)	
Panel report adopted June 1989	L/6514
GATT Articles referred to: II:1(b), IV(d), XI:1, XVII:3, XVIII bis	C/M/224

- Restrictions on imports of agricultural products based on 1955 Waiver

Complaint by the EEC in 1988	L/6393
(See list 1, No. 127)	
Panel established in June 1989	C/M/234

- Restrictions on products from Brazil

Complaint by Brazil in 1988	L/6386
(See list 1, No. 130)	
Panel established in February 1989	C/M/229

- Increases in duty for certain products from the EEC

Complaint by the EEC in 1988	L/6438, 6469
(See list 1, No. 131)	
Request for Council ruling and establishment of a Panel under Article XXIII	C/M/228

- Prohibition on imports of ice cream from Canada

Complaint by Canada in 1988	L/6444
(See list 1, No. 133)	
Article XXIII:1 consultations	C/M/227-229

- Determination under sections 304 and 305 of the Trade Act of 1974 in respect of the EEC's subsidies for oilseeds

Complaint by the EEC in 1989	DS 2/1
(See list 1, No. 135)	
Request for Article XXIII:1 consultations	

- Countervailing duty on pork from Canada

Complaint by Canada in 1989	DS 7/1
(See list 1, No. 138)	
Request for Article XXIII:1 consultations	

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

Uruguay

- Uruguayan recourse in 1961 affecting fifteen contracting parties maintaining different types of measures	L/1647
(See list 1, No. 28)	
Report of Panel adopted on 16 November 1962	11S/95
GATT Articles examined: I, II, III, XI, XII, XVII, XX, XXII, XXIII	
Recommendation of 16 November 1962, addressed to seven contracting parties	11S/56
Reports of Panel adopted on 3 March 1965	13S/35, 45

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

IV. DISPUTE SETTLEMENT UNDER THE TOKYO ROUND AGREEMENTS

1. Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement

- EEC subsidies on export of wheat flour

Request for conciliation under Article 17 by the United States in 1981	SCM/Spec/6
Discussion in Subsidies Committee on 14 December 1981	SCM/M/Spec/1
Panel report of March 1983 (not yet adopted)	SCM/42
Subsequent discussions in Subsidies Committee	SCM/M/14, 18, 31,32,34 SCM/M/Spec/9, 20

- EEC subsidies on export of pasta

Request for conciliation under Article 13:1 by the United States in 1982	SCM/Spec/11
Discussions in Subsidies Committee on 3, 10, 24 March and 7 April 1982	SCM/Spec/2-5
Panel report of May 1983 (not yet adopted)	SCM/43
Subsequent discussions in Subsidies Committee	SCM/M/18, 31, 32,34

- EEC subsidies on export of sugar

Request for conciliation under Article 13:2 by the United States in 1982	SCM/Spec/14
Discussion in Subsidies Committee on 30 April 1982	SCM/M/Spec/6

- Certain domestic procedures of the United States

Request for conciliation under Article 17 by India in 1982	SCM/20
Discussion in Subsidies Committee on 29 April 1982, 15 July 1982 and 17 November 1983	SCM/M/11 SCM/Spec/17 SCM/M/Spec/7

United States countervailing duties investigations against imports from Canada

Request for conciliation under Article 17 by Canada in 1983	SCM/40
Request withdrawn in March 1983	SCM/40/Add.1

- United States subsidies on the export of wheat flour

Request for conciliation under Article 17 by the EEC in April 1983	SCM/Spec/18
Discussion in Subsidies Committee on 18 May 1983 and establishment of Panel	SCM/M/Spec/8
(Matter not pursued)	

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- EEC's and Brazilian subsidies on the export and production of poultry

Request for conciliation under Article 17:1 by the United States in September 1983	SCM/Spec/19
Discussion in Subsidies Committee on 18 November 1983	SCM/M/Spec/9

- Definition of industry concerning wine and grape products contained in the United States Trade and Tariff Act of 1984

Request for conciliation under Article 17:1 by the EEC in December 1984	SCM/M/22, page 6
Panel report of March 1986 (not yet adopted)	SCM/60
Subsequent discussions in Subsidies Committee	SCM/71
	SCM/M/31, 32, 34

- United States countervailing duty investigation into softwood lumber

Request for conciliation under Article 17 by Canada in July 1986	SCM/73
Discussion in Subsidies Committee and establishment of Panel in August 1986	SCM/76
	SCM/M/Spec/12
US and Canada reach mutually satisfactory settlement in January 1987	SCM/M/32, 34
Panel report of May 1987	SCM/83

- Canadian countervailing duty investigation on imports of boneless manufacturing beef

Request for conciliation under Article 17 by the EEC in July 1986	SCM/75
Discussion in Subsidies Committee and establishment of Panel in October 1986	SCM/77
	SCM/M/32, 35
Panel report of October 1987	SCM/85
	SCM/M/39

- Canadian countervailing duty action concerning pasta products exported from the EEC

Request by the EEC for conciliation under Article 17:1 in October 1986	SCM/78
	SCM/M/32

- Canadian imposition of countervailing duties on imports of grain corn exported from the United States

Request by the United States for a special meeting under Article 16:1 in May 1987	SCM/M/33
Request for conciliation under Article 17 in October 1989	SCM/95

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- United States countervailing duties on non-rubber footwear from Brazil	
Request from Brazil for conciliation under Article 17:1 in May 1988	SCM/M/38, 39
Panel established in October 1988	SCM/87
Panel report of October 1989	SCM/M/40+Add.1
	SCM/94
- United States subsidies on exports of soyabean oil	
Request by Brazil for consultations under Article 12:1 in August 1988	SCM/90
- EC approval of a German export subsidy	
Request by the United States for consultations under Article 12:1 in April 1989	SCM/92
2. Agreement on the Implementation of Article VI of the General Agreement	
- Canadian anti-dumping action on electric generators imported from the EEC	
EEC request of November 1983 for conciliation under Article 15:3	ADP/16
Discussions in Anti-Dumping Committee in November 1983 and March 1984	ADP/M/11 paras. 53-59
	ADP/M/Spec/1
- Australian restrictions on imports of canned ham from Romania	
Request by Romania for consultation under Article 15 in May 1988	ADP/M/20
	ADP/M/22
- United States dumping determinations made on imports of stainless steel pipe and tube from Sweden	
Request by Sweden for conciliation under Article 15:3 in September 1988	ADP/38
	ADP/M/23
Request by Sweden for establishment of a panel under Article 15:5 in October 1988	ADP/M/24
Panel established in January 1989	ADP/M/25
- EEC modification to anti-dumping regulations (Regulation 1761/87)	
Request by Japan for consultations under Article 15:2 in July 1988 and for conciliation under Article 15:3 in October 1988	L/6381
	ADP/M/24
	ADP/39

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

- Australian anti-dumping duties on imports of transformers from Finland	
Request by Finland for conciliation under Article 15:3 in April 1989	ADP/42
- EEC anti-dumping duties on imports of video cassettes from Hong Kong	
Request by Hong Kong for consultations under Article 15:2 in June 1989	ADP/44
3. Agreement on Technical Barriers to Trade	
- Japan's treatment of United States manufactured metal softball bats	
Request for initiation of dispute settlement procedures under Article 14:4 by the United States in 1982	TBT/Spec/7
Request withdrawn in March 1983	TBT/Spec/8
- Spanish homolgation requirements for heating radiators and electrical medical equipment	
EEC request of February 1984 for a Committee investigation under Article 14:4 concerning procedures in Spain for type approval of heating radiators and electrical medical equipment	TBT/Spec/9
Discussions in the Committee on Technical Barriers to Trade in February, April, July and September 1984	TBT/M/Spec/1,2, 3,4
Recommendation of 10 July 1984	TBT/M/Spec/3,p.6
Closure of investigation in September 1984	TBT/M/Spec/4,p.2
Amendment of Spanish regulations	TBT/Spec/12
- Spanish type approval of heating radiators and electrical medical equipment	
Consultations under Article 14:1 between Spain and the United States in 1985	TBT/M/19
- EEC Animal Hormone Directive (85/649/EEC)	
Request for initiation of dispute settlement procedures under Article 14:4 by the United States in March 1987	TBT/Spec/18, 19 TBT/M/24
Committee investigates United States case in sessions in June, July and September 1987	TBT/M/Spec/6, 7, 8
United States announces retaliatory measures against certain EEC products in December 1987	

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

4. Agreement on Import Licensing Procedures

- India - import licensing procedures for almonds

Request by United States for panel under Article 4:2 in 1987	LIC/M/19
Panel established in September 1987	LIC/14
Withdrawal of United States complaint following bilateral settlement of issue	LIC/15 LIC/M/22

5. Agreement on Government Procurement

- EC's treatment of value-added taxes

Request for initiation of dispute settlement procedures under Article VII:6 by the United States in 1982	GPR/Spec/18
Discussion in Committee on Government Procurement in July 1982	GPR/M/Spec/1
Panel report adopted on 16 May 1984 and statements made at the meeting of 16 May 1984	GPR/21
Solution of the dispute accepted in February 1987	L/6128

- Japan's single tendering practices

Request for consultations under Article VII:4 by the United States in 1984	GPR/Spec/42

- French "Computer Literacy Program"

Request for establishment of a Panel pursuant to Article VII:2 by the United States in 1985	GPR/W/69 GPR/M/16
As a result of bilateral consultations, the establishment of a Panel was not deemed necessary	GPR/M/18

- Procurement of machine tools by the United States Department of Defense

Request by EEC for consultations under Article VII:3 in 1987	GPR/37

- United States procurement of antarctic research vessel

Request by Finland for consultations under Article VII:4 in October 1988	GPR/M/31 GPR/W/89, 91-93
Request by Finland for special meeting of Committee under Article VII:6 in March 1989	GPR/M/32, 33

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

6. Agreement on Trade in Civil Aircraft

- Development, production and marketing of aircraft produced by the Airbus Industry Consortium

Request by the United States for review under Article 8.7 in 1987	AIR/W/62
Review meeting held in March 1987	AIR/M/20

7. International Dairy Arrangement

- United States sales to Egypt

Request by EEC for a special meeting pursuant to Article VII:1(b)	L/5562 DPC/10, 11

- EEC sales of butter below minimum prices

Special meetings pursuant to Article IV:6	DPC/16, 17

8. Arrangement Regarding Bovine Meat

- EEC subsidies on exports of bovine meat

Request by Argentina for a special meeting pursuant to Article IV:6	IMC/W/31

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

V. FACTUAL ANALYSIS OF THE WORK OF PANELS ESTABLISHED UNDER GATT ARTICLE XXIII:2 SINCE 1979

1. Additional Factual Data on Article XXIII Panels established since 1979

Since GATT contracting parties are not obliged to notify the GATT secretariat of Article XXIII:1 consultations and of their results, the GATT secretariat disposes only of very incomplete information in this respect. Moreover, due to the lack of a central GATT legal office prior to 1983, there exists no systematic collection of certain factual data pertaining to GATT dispute settlement proceedings prior to 1983 (e.g. dates of the first meeting of panels, working procedures adopted by each panel). The parties involved in disputes under Article XXIII, the areas of dispute, the GATT Articles examined in the panel reports, the panel findings and the document references have been indicated already in the tabular lists reproduced above in part III. The following data are confined to additional factual information on the work of GATT panels established under Article XXIII:2 since the GATT Tokyo Round and cover the period 1979-1986 (cases Nos. 50, 51, 54-63, 65-68, 70, 71, 74, 75, 77, 79, 81, 82, 85-88, 92 in the chronological list above).

(a) Terms of reference

Out of the twenty-nine panels established between 1979 and 1986, twenty-four were established with "standard terms of reference", such as:

> "To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by the United Kingdom on behalf of Hong Kong in document L/5362 and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2". (BISD 30S/129)

or:

> "To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by Brazil, relating to the tariff treatment of imports of unroasted coffee into Spain (L/4974), and to make such findings as will assist the CONTRACTING PARTIES in making recommendations or rulings as provided in Article XXIII." (BISD 28S/102)

or:

> "To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by South Africa, that is, whether the action taken with effect from 11 May 1983 in respect of the levying of the retail sales tax on gold coins by the Province of Ontario accords with the provisions of Articles III and II of the General Agreement; whether Canada has carried out its obligations in

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

terms of Article XXIV:12 of the General Agreement; whether any benefits accruing to South Africa under the General Agreement have been nullified or impaired; and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or giving the rulings provided for in paragraph 2 of Article XXIII". (L/5863)

Three panels were given special terms of reference designed to limit the jurisdiction of the panel (see case No. 88, L/6053) or to direct its attention to certain bilateral understandings (case No. 85, C/M/195) or Council discussions (case No. 92, C/145). Two panel proceedings were discontinued before the terms of reference had been decided upon.

(b) Average time passed for the various phases of the panel proceedings

Out of the twenty-nine panels established between 1979-1986 under Article XXIII:2, twenty-four panels submitted reports to the GATT Council before the end of 1986 (three complaints were not pursued, two recent panel proceedings continue to be pending). Five of these twenty-four panel reports have not been adopted (cases Nos. 56, 67, 70, 81 and 88). But in three of these disputes the parties agreed on a solution of the dispute (see cases Nos. 67, 70 and 81), and in another dispute (case No. 56) the GATT Council took note of the report. As regards the remaining nineteen panel proceedings which led to the adoption of a panel report by the Council, the average time passed for the various phases of the panel proceedings was:

(i) Average time from the date of the complaint under Article XXIII:2 to the date of the establishment of a panel by the GATT Council: 1 1/4 months;

(ii) Average time from the date of the establishment of a panel to the date of the publication of the panel report as an L-document: 10 1/2 months;

(iii) Average time from the date of publication of panel report to the date of its adoption by the Council: 2 1/2 months;

(iv) Average time from the date of the complaint under Article XXIII:2 to the date of adoption of the panel report: 14 1/2 months.

If the five panel reports, which were not adopted by the Council (Nos. 56, 67, 70, 81 and 88), are included into the statistical calculation, the average time from the date of the complaint under Article XXIII:2 to the date of the establishment of a panel increases to 1 1/2 months, and the average time from the date of the establishment of a panel to the date of the circulation of the panel report as an L-document increases to 12 1/2 months.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

(c) GATT Articles examined and areas of disputes

Out of the twenty-nine panels established under GATT Article XXIII:2 between 1979-1986, twenty-four panels submitted reports to the GATT Council before the end of 1986. Five of these reports notify that the parties agreed on a settlement of the dispute and/or that the complaint had been withdrawn. Out of the remaining nineteen panel reports, eleven related to quantitative restrictions or national treatment in terms of Articles XI or III, eight to tariff bindings in terms of Article II, eleven raised questions of trade discrimination in terms of Articles I or XIII, and nine affected agricultural products.

2. Assessment of the Causes of the Non-Adoption of Panel Reports since 1979

Between 1979-1986, five panel reports submitted to the Council have not been adopted (Nos. 36, 67, 70, 81 and 88). One panel report (No. 56) was only taken note of because the complaining country, as well as other contracting parties, disagreed with some panel interpretations of GATT Article III and requested the Council not to adopt the report. Two of these panel reports (Nos. 67 and 81) prompted an agreed solution of the dispute, but were not adopted by the Council because of opposition from the respective "losing" parties. Another panel report (No. 70) also contributed to an agreed settlement of the dispute, but some of the panel reasonings were criticized by a number of contracting parties for being inconsistent with past GATT interpretations and GATT legal practice. The fifth panel report (No. 88) continues to be pending before the Council and relates to the sensitive area of politically-motivated trade embargoes.

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

VI. CONCLUDING REMARKS

1. Overall Assessment of GATT Article XXIII Dispute Settlement Proceedings

In evaluating the GATT dispute settlement system under Article XXIII, the following facts should be taken into account.

(a) The more than 100 formal complaints under Article XXIII represent only a very small portion of the disputes that were settled under the General Agreement. Most disputes about the interpretation or implementation of the General Agreement are settled through bilateral consultations or through domestic procedures (e.g. national court decisions on customs matters, antidumping and countervailing duty proceedings) without any involvement of the CONTRACTING PARTIES. One of the major practical functions of Article XXIII has been to provide an incentive to settle disputes by mutual agreement.

(b) About sixty out of 103 formal complaints under Article XXIII led to the submission of one or several report(s) by a panel, working party or group of experts. The other complaints were withdrawn or settled otherwise. Of the fifty-two panel reports submitted to the CONTRACTING PARTIES, to the Council or directly to the parties to the dispute (see No. 32) until the end of 1986, forty-five were adopted; of these, four with understandings and one "in principle", the others without qualifications. In five cases, the parties settled the dispute in a mutually satisfactory way and the complainants no longer insisted on the adoption of the panel report (Nos. 16, 29, 67, 70 and 81). In another case, the panel report was not adopted because the complaining country disagreed with the panel findings and requested the Council not to adopt the report (No. 56). One recent panel report continues to be under consideration by the Council (No. 88). Thus, apart from one panel report which continues to be under consideration in the GATT Council, all other panel reports were either adopted or led to the withdrawal of the complaint or contributed to a settlement of the dispute.

(c) The United States, the EEC and Japan have been the most frequent targets of Article XXIII complaints. Out of nineteen Article XXIII complaints directed against the EEC, sixteen concerned import restrictions or export subsidies on agricultural products. The complaints against the United States and Japan were less frequently directed against agricultural trade restrictions. The 103 complaints so far under Article XXIII included fifteen complaints by altogether fourteen developing contracting parties.

(d) The average time from the date of the complaint under Article XXIII:2 to the date of adoption of the panel report (14 1/2 months during the period 1979-1986), and between the Council decision to establish a panel and the adoption of the panel report by the Council (thirteen months during the period 1979-1986), does not appear to be unreasonable if compared with the often longer time-periods in other international and national dispute

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

settlement proceedings. Since 1983, the time that elapsed between the first meeting of the panel with the parties and the submission of its report was on average less than six months. During these six months, the panel gave the parties time to submit their arguments and their rebuttals, time to comment on the factual part of the panel report, time to reflect on the panel findings and adequate opportunity to develop a mutually satisfactory solution prior to the submission of the panel report to the GATT Council. In the case of the three panels established at the request of a developing contracting party since 1983 (see Nos. 77, 88 and 96), the average time between the first panel meeting and the submission of the panel report to the parties was only about four months. The delays and problems that have occurred in some panel proceedings over the past years appear to have been due, inter alia, to the difficulties of the parties in agreeing on the composition of the panels, to the shortage of qualified persons available to serve as panel members, to the negotiation of special terms of reference, to differences of opinion on the interpretations of GATT law by a few panels (see cases Nos. 56 and 70), and to the opposition to the adoption of a few panel reports by the defendant parties (see cases Nos. 67 and 81).

(e) Only once has a contracting party (Netherlands in 1951) had recourse to the "retaliation" provision of Article XXIII:2 and has been authorized by the CONTRACTING PARTIES to suspend GATT obligations to another contracting party (the United States).

(f) Most of the GATT panel procedures have gradually evolved in GATT practice under Article XXIII in reaction to concrete needs and constraints. The 1979 Understanding on Dispute Settlement is essentially an agreed codification of the customary practice of the GATT in the field of dispute settlement under Article XXIII:2 and has proven very useful. This case-oriented use of Article XXIII for the elaboration of agreed interpretations of the GATT provisions and for the progressive improvement of GATT dispute settlement procedures has become an important function of Article XXIII in addition to its function as a framework for the settlement of concrete bilateral disputes.

2. Overall Assessment of Dispute Settlement Proceedings under the 1979 Tokyo Round Agreements

The practical experience with dispute settlement has differed so much under the various Tokyo Round Agreements that it seems difficult to draw any general conclusions. For instance, views tend to differ on whether the large number of disputes under the Subsidy Code, and the disagreement in the Subsidy Committee over the adoption of panel reports, are to be attributed to the Subsidy Code provisions, or to the parties concerned, or to the panel reports concerned. The declared reasons for the opposition by some contracting parties to the adoption of the panel reports pending before the Subsidy Committee - the "non-liquet"-finding of one panel report as to whether certain export subsidies were in contravention of the

2.I Internal Working Procedures adopted by panels established under Article XXIII:2 of the General Agreement. Group of Negotiations on Goods (GATT), GATT Dispute Settlement System, Negotiating Group on Dispute Settlement, Note by the Secretariat, Revision *(continued)*

provisions or not (SCM/42, para. 5.3); the dissenting opinion expressed by one panel member in another panel report (SCM/43, para. 5); and the link established by one contracting party between the adoption of different panel reports submitted by different panels (see SCM/M/32, para. 168, SCM/71) - have so far hardly ever presented themselves as obstacles to the adoption of panel reports in the GATT Council or in other MTN Committees (one exception being the link established between the four tax cases Nos. 39-42, the reports on which were elaborated by one and the same panel and adopted at the same time). The dispute settlement procedures of the Subsidy Code are particularly detailed and extensive; this suggests that the particular problems that have arisen in the settlement of disputes under this Code, may not be due to procedural deficiencies but rather to divergent interpretations of, or non-compliance with, the substantive subsidy rules of this Code.

The dispute settlement provisions of the other MTN Agreements have been used only in one instance for the establishment of a panel and the adoption of a panel report under the Government Procurement Agreement (GPR/21).

Source: Document MTN.GNG/NG13/W/4/Rev.1 of 10 November 1989.

2.m April 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures. Decision of 22 February 1994

GENERAL AGREEMENT

ON TARIFFS AND TRADE

L/7416
28 February 1994
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(94-0376)

APRIL 1989 DECISION ON IMPROVEMENTS TO THE GATT DISPUTE SETTLEMENT RULES AND PROCEDURES

Extension of application

Decision of 22 February 1994

The CONTRACTING PARTIES,

Recalling their Decision of 12 April 1989 (BISD 36S/61),

Noting that the improvements to the GATT dispute settlement rules and procedures are being applied on a trial basis until the end of the Uruguay Round and that a decision on their adoption should be taken before the end of the Round,

Considering that the continuation of the improved rules and procedures is necessary for the effectiveness of the dispute settlement mechanism,

Decide,

To keep the above-mentioned improvements in effect until the entry into force of the Understanding on Rules and Procedures Governing the Settlement of Disputes contained in Annex 2 of the Agreement Establishing the World Trade Organization (MTN/FA, II).

Source: Document L/7416 of 28 February 1994, BISD 41S/130.

2.n Third Party Participation in Panels. Statement by the Chairman of the Council on 21 June 1994

GENERAL AGREEMENT

ON TARIFFS AND TRADE

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C/COM/3
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COUNCIL
21 June 1994
Item No. 9

THIRD-PARTY PARTICIPATION IN PANELS

Statement by the Chairman of the Council

At the June 1994 Council meeting, the Chairman of the Council made the following statement:

"At the February 1994 Council meeting, the United States raised the question of third-party participation in panels. The late notification by a contracting party of its intention to participate in a panel may create difficulties, for example in relation to the determination of the panel's composition. Another problem that has occurred relates to the reception by third parties, in good time, of the submissions of the parties to the dispute to the first meeting of a panel.

After consultations, and in order to avoid such difficulties, I propose that the Council agree to the following practices in future, without prejudice to the rights of contracting parties under established dispute settlement procedures:

1. Delegations in a position to do so, should indicate their intention to participate as a third party in a panel proceeding at the Council session which establishes the panel. Others who wish to indicate a third party interest should do so within the next ten days.

2. Further to paragraph F(e) (3) of the Decision of 12 April 1989 (BISD 36S/61) and to the Decision of 22 February 1994 (L/7416), it is the understanding of the Council that third parties shall receive the submissions of the parties to the dispute to the first meeting of a panel established by the Council."

At its meeting, the Council agreed to the above-mentioned practices.

Source: Document C/COM/3 of 27 June 1994, BISD 41S/130.