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STATUS OF WORK IN PANELS AND IMPLEMENTATION OF PANEL REPORTS

Report by the Director-General

A. STATUS OF WORK IN PANELS ESTABLISHED BY THE COUNCIL

1. European Economic Community - Production aids granted on canned peaches, canned pears, canned fruit cocktail and dried grapes

The Panel was established by the Council in March 1982 at the request of the United States. Its report was submitted to the Council in February 1985 (L/5778). The report was considered by the Council at its meetings in March, April, May, July, October and November 1985. At its February 1986 meeting the Council was informed that the two parties had settled this dispute in a mutually satisfactory way. This settlement was based on three elements: (1) the reductions of the production aid on canned pears, already decided autonomously by the EEC in the last three years and the limitation by quota of the quantity of product benefiting from the aid; (2) the undertaking to ensure that EEC production aid for canned peaches, for the marketing year beginning July 1986, was 25 per cent lower than that applying for 1985/86; and (3) the assurance that, in subsequent marketing years, this aid would be fixed in such a way as not to subsidize the processing operation for peaches in syrup either canned as such or as part of fruit mixtures. The representative of the United States said that the resolution of the dispute had been facilitated by the Panel's work. While he would have preferred to have the Panel's report adopted, he would agree to take it off the Council's agenda.

2. European Economic Community - Tariff treatment on imports of citrus products from certain countries in the Mediterranean region

The Panel was established by the Council in November 1982 at the request of the United States. Its report was transmitted to the Council in February 1985 (L/5776). It was considered by the Council at its meetings in March, April, May and June 1985. At the June 1985 Council meeting the representative of the United States said that his authorities were convinced that further discussions in the Council would not lead to resolving the issues and that they therefore had no alternative but to seek a solution outside the GATT dispute settlement procedures. At its November 1985 meetings the Council was informed that, effective 1 November 1985, the United States had increased its tariffs on imports of pasta to redress the imbalance created by the non-resolution of the dispute on citrus products and that the European Economic Community, in response to the United States measures, had increased its tariffs on imports of lemons and walnuts from the United States.

3. Canada - Measures affecting the sale of gold coins

The Panel, established by the Council in November 1984 at the request of South Africa, submitted its report in September 1985 (L/5863). The report was discussed at the Council's meetings in October and November 1985 and February, March and May 1986. At its February 1986 meeting the Council was informed that the differential treatment in Ontario between Maple Leaf gold coins and other gold investment coins had been removed on 7 January 1986.

4. Canada - Import, distribution and sale of alcoholic drinks by provincial marketing agencies

The Panel was established by the Council at its meeting in March 1985 at the request of the European Economic Community. The Chairman of the Council was authorized to draw up, in consultation with the parties concerned, the terms of reference of the Panel and to designate its chairman and members. The Council was informed of the terms of reference in February 1986. It has not yet been possible to reach agreement on the composition of the panel and the time-limit of thirty days for the constitution of panels¹ was thus not met in this case. Efforts to compose the Panel failed twice because of the unavailability of the persons agreed to by the two parties. Consultations between the two parties on the substantive issue are being held.

5. United States - Restrictions on imports of certain sugar-containing products

The Panel was established by the Council at its meeting in March 1985 at the request of Canada. The Chairman of the Council was authorized to draw up, in consultation with the parties concerned, the terms of reference of the Panel and to designate its chairman and members. These consultations have been deferred - and the time-limit of thirty days for the constitution of panels was not met¹ - since the two parties are having bilateral discussions on the matter of the dispute.

6. Japan - Quantitative restrictions on imports of leather footwear

The Panel was established by the Council at its July 1985 meeting at the request of the United States. The representative of Japan declared at the meeting of the Council in November 1985 that new tariff measures would replace the import quota system and that his authorities would enter into negotiations under Article XXVIII on bound items. The United States therefore withdrew its request for the establishment of the Panel in December 1985 (L/5826/Add.1). The representative of Japan informed the Council at its meeting in May 1986 that the Article XXVIII negotiations had been completed in February 1986.

¹ See paragraph (ii) of the section on dispute settlement procedures in the 1982 Ministerial Declaration (BISD 29S/14).

7. United States - Trade measures affecting Nicaragua

The Panel was established by the Council at its October 1985 meeting at the request of Nicaragua. The Council was informed of the terms of reference at its March 1986 meeting and of the composition of the Panel in April 1986 through document C/137. The time-limit of thirty days for the constitution of panels was not met in this case.¹ The Panel held its first meeting with the parties in May 1986.

B. STATUS OF WORK OF PANELS ESTABLISHED BY MTN COMMITTEES

1. European Economic Community - Subsidies on exports of wheat flour
2. European Economic Community - Subsidies on exports of pasta products

The reports of these two Panels established by the Committee on Subsidies and Countervailing Measures (SCM/42 and SCM/43) were submitted to the Committee in March and May 1983, respectively. They deal with fundamental issues, bearing on the interpretation of Article 10 in the wheat flour case and on the application of Article 9 in the pasta products case. As there have been divergent perceptions in the Committee in this respect, it has not been possible, so far, to adopt these reports.

3. United States - Definition of "industry" for wine and grape products

The Panel was established by the Committee on Subsidies and Countervailing Measures in February 1985 at the request of the EEC. The Panel submitted its report (SCM/71) to the Committee in March 1986. The Committee discussed the report at its meeting in April 1986 but no agreement on its adoption could be reached.

C. IMPLEMENTATION OF PANEL REPORTS ADOPTED BY THE COUNCIL

1. European Economic Community - Quantitative restrictions against imports of certain products from Hong Kong

The report of this Panel was adopted by the Council in July 1983 (BISD 30S/129). At the meeting of the Council in May 1986 the representative of Hong Kong said that, although nearly three years had elapsed since the adoption of that report, the Panel's recommendation that the measures be eliminated had still not been fully complied with.

¹See paragraph (ii) of the section on dispute settlement procedures in the 1982 Ministerial Declaration (BISD 29S/14).

2. Canada - Administration of the Foreign Investment Review Act

The Council adopted the report of this Panel in February 1984 (BISD 30S/140). Paragraph 6.7 of the report called on Canada, inter alia, to bring purchase undertakings entered into before the report's adoption into conformity with Canada's obligations under the General Agreement, and to report on the steps taken to that effect before the end of 1985. At its meeting in November 1985 the representative of Canada informed the Council that Canada had altered the monitoring of existing undertakings. Companies affected by the Panel's findings had been notified in writing, in connection with the monitoring of their investments, that sourcing undertakings were considered to be fulfilled if evidence was provided that Canadians had been offered a full and fair opportunity to supply goods and services. This alteration, the representative of Canada said, had brought purchase undertakings in existence in February 1984 into conformity with Canada's obligations under the General Agreement and had therefore fulfilled the Panel's recommendation.

3. United States - Manufacturing clause

The report of this Panel was adopted by the Council in May 1984 (BISD 31S/74). The Panel found the manufacturing clause in the United States' copyright legislation to be inconsistent with the General Agreement. No action has so far been taken to implement the Panel report; however, according to the legislation presently in force, the application of the manufacturing clause lapses on 1 July 1986. The United States Congress is presently considering proposals for legislation which would extend the manufacturing clause beyond the expiry date and expand its coverage. The European Economic Community therefore requested that the CONTRACTING PARTIES authorize, in conformity with Article XXIII:2, the Community to suspend the application of concessions towards the United States equivalent to the economic damage caused to the Community by the manufacturing clause should the proposed new legislation take effect (L/5968). The Council discussed this request at its meetings in March and May 1986 and agreed to revert to the matter at a future meeting.

4. Japan - Measures on imports of leather

The Council adopted the Panel report (BISD 31S/94) at its meeting in May 1984. At subsequent meetings in 1984 and 1985, the Council discussed the follow-up to the report. At the meeting of the Council in July 1985 the representative of Japan said that his government had decided that new tariff measures would replace the import quota system on leather; once the tariff measures were formulated, Japan would enter into negotiations under Article XXVIII on bound items. The representative of Japan informed the Council at its meeting in May 1986 that these negotiations had been concluded in February 1986. As from 1 April 1986 his government had eliminated quantitative restrictions on leather imports in accordance with the Panel report while introducing a tariff quota system for those products.

D. IMPLEMENTATION OF PANEL REPORTS A ED BY MTN COMMITTEES

European Economic Community - Value-added tax and threshold

The report of this Panel was adopted by the Committee on Government Procurement in May 1984 (BISD 31S/247). The Panel found that the value-added tax is to be included when determining whether a contract falls above or below the threshold value of SDR 150,000. The European Economic Community has proposed to unilaterally reduce the threshold by one half of the estimated average incidence of the value-added tax on code-covered purchases while continuing to include the value-added tax in the calculation of the contract value. The United States has not accepted this proposal. At the meeting of the Committee on Government Procurement in February 1986 the representative of the EEC said that he hoped to propose a possible solution at the next meeting of the Committee, scheduled for 19 June 1986.