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STATUS OF WORK IN PANELS AND IMPLEMENTATION OF PANEL REPORTS

Report by the Director-General¹

A. STATUS OF WORK IN PANELS ESTABLISHED BY THE COUNCIL

1. Canada - Measures affecting the sale of gold coins

The Panel, established in November 1984 at the request of South Africa, submitted its report in September 1985 (L/5863). At issue in this case was the differential fiscal treatment in Ontario between Maple Leaf gold coins and other gold investment coins. This differential treatment was removed on 7 January 1986. The report was discussed at five Council meetings. At the May 1986 meeting Canada stated that it was not in a position to indicate whether it could support the adoption of the report (C/M/198).

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

The Panel was established in March 1985 at the request of Canada (C/M/186). The Chairman of the Council was authorized to draw up the terms of reference of the Panel and to designate its Chairman and members in consultation with the parties concerned. These consultations have been deferred since the two parties are having bilateral discussions on the matter of the dispute. At the Council meeting in June 1989 the Director-General noted that long periods of time between the establishment and constitution of panels had not been contemplated by the drafters of the decisions on dispute settlement (C/M/233).

3. United States - Trade measures affecting Nicaragua

The Panel was established in October 1985 at the request of Nicaragua and submitted its report in October 1986 (L/6053). The report was considered at the Council meeting in November 1986 (C/M/204) and April and July 1987 (C/M/208, C/M/212). The Chairman of the Council has consulted with delegations on the Panel report on several occasions (C/M/212, 213, 215). The Council considered the matter again at its meeting in June 1989 (C/M/234), and took note in its meeting in April 1990 of statements referring to the removal of the United States measures affecting Nicaragua (C/M/240).

¹Previous reports were circulated as documents C/124, C/136, C/139, C/141, C/148, C/152, C/156, C/160, C/167, C/170 and C/172.

4. European Economic Community - Third-country meat directive

The Panel was established by the CONTRACTING PARTIES at their Session in December 1987 at the request of the United States (SR.43/5). The Chairman of the Council was authorized to draw up the terms of reference of the Panel and to designate its Chairman and members in consultation with the parties concerned. These consultations are presently suspended. At the Council meeting in June 1989 the Director-General noted that long periods of time between the establishment and constitution of panels had not been contemplated by the drafters of the decisions on dispute settlement (C/M/233).

5. United States - Tariffs on imports of certain products from Brazil

The Panel was established at the meeting of the Council in February 1989 at the request of Brazil (C/M/229). Terms of reference were agreed at the Council meeting in June 1989. The composition of the Panel was agreed in September 1989 (C/169). Brazil informed the Director-General in September 1990 that it wished to withdraw the complaint as the issue which had led to the complaint had been resolved (C/169/Add.1).

6. United States - Restrictions on the importation of agricultural products applied under the 1955 Waiver and under the Headnote to the Schedule of tariff concessions (Schedule XX - United States) concerning Chapter 10

The Panel was established at the meeting of the Council in June 1989 at the request of the EEC (C/M/234). Its composition and terms of reference were decided at the same meeting. It began its work in July 1989 and submitted its report to the Council at its meeting in February 1990 (C/M/239). The report was discussed by the Council at its meetings in April, May, June, July and October 1990 (C/M/240, 241, 243, 244, 245).

7. United States - Countervailing duty on pork from Canada

The Panel was established by the CONTRACTING PARTIES at their Session in December 1989 (SR.45/2) at the request of Canada. The Council was informed of the composition and terms of reference of the panel at its meeting in February 1990 (C/M/239). The Panel began its work in February 1990 and submitted its report in September 1990 (DS7/R*). The report was discussed at the Council meeting in October 1990 (C/M/245).

8. Thailand - Restrictions on importation of and internal taxes on cigarettes

The Panel was established at the meeting of the Council in April 1990 (C/M,240) at the request of the United States. Its composition and terms of reference, as well as an Understanding between the parties, were announced at the Council meeting in May 1990 (C/M/241). The Panel began its work in May 1990 and submitted its report in October 1990 (DS10/R). The report will be discussed at the November 1990 Council meeting.

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 at the request of the United States (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 and submitted its report to the Committee in March 1986 (SCM/71). The Committee discussed the report at meetings in April and October 1986 (SCM/M/31 and 32) and at meetings in 1987, 1988 and 1989. The Committee discussed the issue most recently in October 1989 but no agreement on its adoption could be reached.

4. Canada - Countervailing duty investigation into manufacturing beef from the EEC

The Panel was established by the Committee on Subsidies and Countervailing Measures in October 1986 at the request of the EEC (SCM/M/32). The terms of reference of the Panel were agreed in December 1986 and its composition in March 1987. The Panel began its work in May 1987. It submitted its report to the parties to the dispute in September 1987 and to the Committee in October 1987 (SCM/85). The Committee considered the report at meetings in October and December 1987, and in February, May and October 1988 (SCM/M/35, 36, 37, 38 and 42).

5. United States - Collection of countervailing duties on entries of non-rubber footwear from Brazil

The Panel was established by the Committee on Subsidies and Countervailing Measures in October 1988 at the request of Brazil (SCM/M/40 and Add.1). The Panel began its work in February 1989 and submitted its report (SCM/94) to the Committee in October 1989 (SCM/M/44). At the request of the delegation of Brazil, the Committee agreed to postpone its consideration of this report until its April 1990 meeting.

6. United States - Anti-dumping duties on imports of stainless steel pipes and tubes from Sweden

The Panel was established by the Committee on Anti-Dumping Practices in January 1989 at the request of Sweden (ADP/M/25). The terms of reference and the composition of the Panel were determined in April 1989 (ADP/43). The Panel began its work in May 1989 and submitted its report to the Committee in September 1990 (ADP/47, ADP/M/28).

C. IMPLEMENTATION OF PANEL REPORTS ADOPTED BY THE COUNCIL

1. United States - Taxes on petroleum and certain imported substances

The report of the Panel, established in February 1987 at the request of Canada, the EEC and Mexico, was adopted in June 1987 (C/M/211). At meetings in October 1987 and February 1988, the Council discussed implementation of the report (C/M/213, 217). In March 1988 the EEC submitted a request for authorization to suspend the application of concessions in accordance with Article XXIII:2 (C/W/540/Add.1). The matter was considered by the Council on seven occasions in 1988 and on five further occasions in 1989 (C/M/218, 220, 222, 223, 224, 226, 227, 228, 231, 232, 234 and 235). At the Council meeting in October 1989, Canada presented a request for authority to withdraw concessions (C/W/608). In the Session of the CONTRACTING PARTIES in December 1989 the United States stated that legislation implementing the report was about to come into force (SR.45/2).

2. United States - Customs user fee

The report of the Panel, established in March 1987 at the request of Canada and the EEC, was adopted by the Council in February 1988 (C/M/217). Concerns about the non-implementation of the Panel's recommendations were expressed at the meeting of the CONTRACTING PARTIES at their Session in November 1988 (SR.44/2) and at Council meetings in March and May 1989 (C/M/228, 232). At the Council meeting in June 1989, the United States announced that a legislative amendment presently before Congress would remove measures inconsistent with the Panel recommendations (C/M/234). The matter was again considered by the Council at its meeting in November 1989 (C/M/237). At the Session of the CONTRACTING PARTIES in December 1989, the United States stated that it would implement the recommendations of the panel upon expiry in October 1990 of the current customs user fees (SR.45/2). At the Council meeting of October 1990, the United States announced that it had revised its customs user fees in response to the Panel report (C/M/245, L/6741).

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

The report of the Panel, established in March 1985 at the request of the EEC, was adopted by the Council in March 1988 (C/M/218). At the Council meeting in July 1990, the United States questioned the implementation of the report and requested consultations with Canada (C/M/244). At its meeting in October 1990, the Council took note of a request from the United States that it be permitted to suspend the application to Canada of appropriate concessions or other obligations (C/M/245).

4. Japan - Restrictions on imports of certain agricultural products

The report of the Panel, established in October 1986 at the request of the United States, was adopted by the Council in February 1988 (C/M/217). Questions concerning the full implementation of the report were raised by Australia at the Council meeting in June 1990 (C/M/243).

5. Japan - Trade in semi-conductors

The report of the Panel, established in April 1987 at the request of the EEC, was adopted in May 1988 (C/M/220). At the Council meetings in October and December 1988 the EEC requested Japan to report on the implementation of the Panel's recommendations (C/M/226 and 227). Japan made the requested report at the Council meeting in March 1989 (C/M/230). At the Council meeting of June 1989, Japan stated that it had implemented the necessary measures effective 1 June 1989 (C/M/234). At the Council meeting of May 1990, the United States requested that the Community make available to contracting parties the text of any agreements on this matter reached with the Japanese government or Japanese semi-conductor manufacturers (C/M/241).

6. Norway - Restrictions on imports of apples and pears

The report of the Panel, established in March 1988 at the request of the United States, was adopted in June 1989 (C/M/234). In the Council meeting in April 1990 the United States questioned whether the measures contained in the Norwegian proposal to implement the report were consistent with the General Agreement (C/M/240, L/6651).

7. United States - Restrictions on imports of sugar

The report of the Panel, established in September 1988 at the request of Australia, was adopted in June 1989 (C/M/234). In Council meetings in January and May 1990 Australia expressed concern that the United States had not yet implemented the report (C/M/238, 241). At the Council meeting in October 1990, the United States announced that it had revised its sugar import policy in response to the Panel report (C/M/245, L/6742).

8. (a) Korea - Restrictions on imports of beef
(complaint by the United States)
- (b) Korea - Restrictions on imports of beef
(complaint by Australia)
- (c) Korea - Restrictions on imports of beef
(complaint by New Zealand)

The reports of the Panels established in May 1988, at the request of the United States, Australia and New Zealand, were adopted in November 1989 (C/M/237). The implementation of the reports by Korea through bilateral agreements was discussed in Council meetings in January, February, April, May, June and July 1990 (C/M/238, 239, 240, 241, 243, 244).

9. United States - Section 337 of the Tariff Act of 1930

The report of the Panel, established in October 1987 at the request of the EEC, was adopted in November 1989 (C/M/237). In the December 1989 Session of the CONTRACTING PARTIES, the EEC expressed the hope that the United States would report soon on how it intended to implement the report (SR.45/2).

10. Canada - Restrictions on Imports of Ice Cream and Yoghurt

The report of the Panel, established in December 1988 at the request of the United States, was adopted by the CONTRACTING PARTIES in December 1989 (SR.45/2). The implementation of the report was discussed at Council meetings in June, July and October 1990 (C/M/243, 244, 245).

11. European Economic Community - Regulations to prevent circumvention of anti-dumping duties

The report of the Panel, which was established in October 1988 at the request of Japan, was adopted by the Council in May 1990 (C/M/241). The implementation of the report was discussed at the Council meeting in July 1990 (C/M/244). At the Council meeting in July 1990, Japan stated that it wished to raise the issue of follow-up at the next meeting.