

Dispute Settlement Update

March 9, 2004

I. WTO

A. Proceedings in which the United States is a plaintiff

1. *Argentina—Patent and test data protection for pharmaceuticals and agricultural chemicals (WT/DS171, 196)*

On May 6, 1999, the United States filed a consultation request challenging Argentina's failure to provide a system of exclusive marketing rights for pharmaceutical products, and to ensure that changes in its laws and regulations during its transition period do not result in a lesser degree of consistency with the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement"). Consultations were held on June 15, 1999, and again on July 27, 1999. On May 30, 2000, the United States expanded its claims in this dispute to include new concerns that have arisen as a result of Argentina's failure to fully implement its remaining TRIPS obligations that came due on January 1, 2000. These concerns include Argentina's failure to protect confidential test data submitted to government regulatory authorities for pharmaceuticals and agricultural chemicals; its denial of certain exclusive rights for patents; its failure to provide such provisional measures as preliminary injunctions to prevent infringements of patent rights; and its exclusion of certain subject matter from patentability. Consultations continued until April 16, 2002, when the two sides agreed to settle eight of the ten issues in the dispute. Argentina and the United States notified a settlement of these issues to the DSB on May 31, 2002. The United States reserved its rights with respect to the remaining issues, and the dispute remains in the consultation phase with respect to these issues.

2. *Brazil—Measures on minimum import prices (WT/DS197)*

The United States requested consultations on May 31, 2000, with Brazil regarding its customs valuation regime. U.S. exporters of textile products have reported that Brazil uses officially-established minimum reference prices both as a requirement to obtain import licenses and/or as a base requirement for import. In practice, this system works to prohibit the import of products with declared values below the established minimum prices. This practice appears inconsistent with Brazil's WTO obligations, including those under the Agreement on Customs Valuation. The United States participated as an interested third party in a dispute initiated by the EU regarding the same matter, and decided to pursue its own case as well. The United States held consultations with Brazil on July 18, 2000, and continues to monitor the situation.

3. *Canada—Measures relating to exports of wheat and treatment of imported grain (WT/DS276)*

On December 17, 2002, the United States requested consultations with Canada regarding trade in wheat. The United States believes that the wheat trading practices of the Canadian Wheat Board (CWB) are inconsistent with WTO disciplines governing the conduct of state-trading enterprises.

The United States is also challenging as unfair and burdensome Canada's requirements to segregate imported grain in the Canadian grain handling system, along with Canada's discriminatory policy that affects U.S. grain access to Canada's rail transportation system. Consultations were held January 31, 2003. The United States requested the establishment of a panel on March 6, 2003. The DSB established a panel on March 31, 2003. The Director General composed the panel as follows: Ms. Claudia Orozco, Chair, and Mr. Alan Matthews and Mr. Hanspeter Tschaeni, Members. Following a preliminary procedural ruling, the DSB established a second panel on July 11, 2003, with the same panelists and the same schedule.

4. *EC—Measures concerning meat and meat products (hormones) (WT/DS26, 48)*

The United States and Canada challenged the EU ban on imports of meat from animals to which any of six hormones for growth promotional purposes had been administered. On July 2, 1996, the following panelists were selected, with the consent of the parties, to review the U.S. claims: Mr. Thomas Cottier, Chairman; Mr. Jun Yokota and Mr. Peter Palecka, Members. The panel found that the EU ban is inconsistent with the EU's obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement"), and that the ban is not based on science, a risk assessment, or relevant international standards. Upon appeal, the Appellate Body affirmed the panel's findings that the EU ban fails to satisfy the requirements of the SPS Agreement. The Appellate Body also found that while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement. In this case the ban imposed is not rationally related to the conclusions of the risk assessments the EU had performed.

Because the EU did not comply with the recommendations and rulings of the DSB by May 13, 1999, the final date of its compliance period as set by arbitration, the United States sought WTO authorization to suspend concessions with respect to certain products of the EU, the value of which represents an estimate of the annual harm to U.S. exports resulting from the EU's failure to lift its ban on imports of U.S. meat. The EU exercised its right to request arbitration concerning the amount of the suspension. On July 12, 1999, the arbitrators determined the level of suspension to be \$116.8 million. On July 26, 1999, the DSB authorized the United States to suspend such concessions and the United States proceeded to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of \$116.8 million. On May 26, 2000, USTR announced that it was considering changes to that list of EU products. While discussions with the EU to resolve this matter are continuing, no resolution has been achieved yet. On November 3, 2003, the EU notified the WTO of its plans to make permanent the ban on one hormone, oestradiol.

5. *EC—Protection of trademarks and geographical indications for agricultural products and foodstuffs (WT/DS174)*

EU Regulation 2081/92, as amended, does not provide national treatment with respect to geographical indications for agricultural products and foodstuffs; it also does not provide sufficient protection to pre-existing trademarks that are similar or identical to such geographical indications. The United States considers this measure inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The United States requested consultations regarding this matter on June 1, 1999. Ongoing consultations have been held since July 9, 1999. On April 4, 2003, the United States requested consultations on the additional issue of the EU's national treatment obligations under the GATT 1994. The United States and Australia held joint consultations with the EC on May 27, 2003. The United States requested the establishment of a panel on August 18, 2003, and a panel was established on October 2, 2003. On February 23, 2004, the Director General composed the panel as follows: Mr. Miguel Rodriguez Mendoza, Chair, and Mr. Seung Wha Chang and Mr. Peter Kam-fai Cheung, Members.

6. *EC—Provisional safeguard measures on imports of certain steel products (WT/DS260)*

On May 30, 2002, the United States filed a consultation request with respect to the EU's provisional safeguard measures against certain steel products, imposed effective on March 29, 2002. These measures appear to be inconsistent with the EC's obligations under the provisions of the GATT 1994 and of the WTO Agreement on Safeguards, and, in particular, Article XIX of the GATT 1994 and Articles 2, 3, 4, 6, and 12 of the Agreement on Safeguards. These provisions provide, inter alia, that a provisional safeguard measure may only be applied in critical circumstances where delay would cause damage difficult to repair, and only pursuant to a preliminary determination that there is clear evidence that increased imports have caused or threaten to cause serious injury. One round of consultations was held on June 27, 2002, and a second round was held on July 24, 2002. The United States requested the establishment of a panel on August 19, 2002, and the DSB established a panel on September 16, 2002.

7. *EC—Measures affecting the approval and marketing of biotech products (WT/DS291)*

On May 13, 2003, the United States filed a consultation request with respect to the EU's moratorium on all new biotech approvals, and bans of six member states (Austria, France, Germany, Greece, Italy and Luxembourg) on imports of certain biotech products previously approved by the EU. The moratorium is not supported by scientific evidence, and the EU's refusal even to consider any biotech applications for final approval constitutes "undue delay." The national import bans of previously EU-approved products appear not to be based on sufficient scientific evidence. Consultations were held June 19, 2003. The United States requested the establishment of a panel on August 7, 2003, and the DSB established a panel on August 29, 2003. On March 4, 2003, the Director General composed the panel as follows: Mr. Christian Häberli, Chairman, and Mr. Mohan Kumar and Mr. Akio Shimizu, Members.

8. *Egypt–Apparel Tariffs (WT/DS305)*

On December 23, 2003, the United States requested consultations with Egypt regarding the duties that Egypt applies to certain apparel and textile imports. During the Uruguay Round, Egypt agreed to bind its duties on these imports (classified under HS Chapters 61, 62 and 63) at rates of less than 50 percent (*ad valorem*) in 2003 and thereafter. The United States believes the duties that Egypt actually applied, on a "per article" basis, greatly exceeded Egypt's bound rates of duty. In January 2004, Egypt informed the United States that it had issued a decree applying *ad valorem* rates to these imports and setting the duty rates within Egypt's tariff bindings. The United States is reviewing these changes.

9. *Japan– Measures affecting the importation of apples (WT/DS245)*

On March 1, 2002, the United States requested consultations with Japan regarding Japan's quarantine restrictions on U.S. apples imported into Japan to protect against introduction of fire blight (*Erwinia amylovora*). These restrictions include, *inter alia*, the prohibition of imported apples from orchards in which any fire blight is detected, the requirement that export orchards be inspected three times yearly for the presence of fire blight, the disqualification of any orchard from exporting to Japan should fire blight be detected within a 500 meter buffer zone surrounding such orchard, and a post-harvest treatment of exported apples with chlorine. The United States considers these measures to be inconsistent with Japan's obligations under the GATT 1994, the SPS Agreement, and the Agreement on Agriculture. Japan's measures also appear to nullify or impair the benefits accruing to the United States directly or indirectly under the cited agreements. Consultations were held on April 18, 2002, but failed to resolve the matter. On May 7, 2002, the United States requested the establishment of a panel. The DSB established the panel on June 3, 2002. The Director General composed the panel as follows: Mr. Michael Cartland, Chairman, and Mr. Christian Haerberli and Ms. Kathy-Ann Brown, Members. In its report issued on July 15, 2003, the panel agreed with the United States that Japan's fire blight measures on U.S. apples are inconsistent with Japan's WTO obligations. In particular, the panel found that: (1) Japan's measures are maintained without sufficient scientific evidence, inconsistent with Article 2.2 of the SPS Agreement; (2) Japan's measures cannot be provisionally maintained under Article 5.7 of the SPS Agreement (an exception to the obligation under Article 2.2); and (3) Japan's measures are not based on a risk assessment and so are inconsistent with Article 5.1 of the SPS Agreement. Japan appealed the panel's report on August 28, 2003. The Appellate Body issued its report on November 26, 2003, upholding the panel's findings. The DSB adopted the panel and Appellate Body reports on December 10, 2003. Japan notified its intention to implement the recommendations and rulings of the DSB on January 9, 2004. Japan and the United States agreed that the reasonable period of time for implementation will expire on June 30, 2004.

10. Mexico—Antidumping investigation of high fructose corn syrup from the United States (WT/DS101)

On January 28, 2000, a WTO panel ruled that Mexico's imposition of antidumping duties on U.S. imports of high fructose corn syrup ("HFCS") was inconsistent with the requirements of the Antidumping Agreements in several respects. The panel, which was composed on January 13, 1999, with the consent of the parties, included: Mr. Christer Manhusen, Chairman; Mr. Gerald Salembier and Mr. Edwin Vermulst, Members. Mexico had begun this antidumping investigation based on a petition by the Mexican sugar industry. The United States successfully demonstrated that Mexico's threat of injury determination and imposition of provisional and final antidumping duties was flawed. Mexico did not appeal, and the panel report was adopted on February 24, 2000. On April 10, Mexico agreed to implement the panel recommendation by September 22, 2000. On September 20, 2000, Mexico announced that it has conformed to the panel's recommendations and rulings by redetermining that there was a threat of injury to the domestic sugar industry and maintaining the subject antidumping duties, while at the same time determining that the provisional amounts paid from June 26, 1997, to January 23, 1998, would be refunded with interest. The United States, however, disagrees that such action results in full implementation of the panel's recommendations and rulings. Therefore, on October 12, 2000, the United States requested that the panel be reconvened to examine this matter. The panel was established on October 23, 2000, for that purpose, with Mr. Paul O'Connor replacing Mr. Vermulst, who no longer was available to serve. In a report released on June 22, 2001, the panel agreed with the United States that Mexico had failed to cure the flaws already found in its original determination. Mexico appealed that finding. The Appellate Body released its report on October 22, 2001, in which it agreed with the panel's findings. The Appellate Body and panel reports were adopted on November 21, 2001. In May 2002, Mexico revoked its antidumping duties on high fructose corn syrup.

11. Mexico—Measures affecting telecommunications services (WT/DS204)

On August 17, 2000, the United States requested consultations with Mexico regarding its commitments and obligations under the General Agreement on Trade in Services ("GATS") with respect to basic and value-added telecommunications services. The U.S. consultation request covered a number of key issues, including the Government of Mexico's failure to (1) maintain effective disciplines over the former monopoly, Telmex, which is able to use its dominant position in the market to thwart competition; (2) ensure timely, cost-oriented interconnection that would permit competing carriers to connect to Telmex customers to provide local, long-distance, and international service; and (3) permit alternatives to an outmoded system of charging U.S. carriers above-cost rates for completing international calls into Mexico.

These consultations, which were held on October 10, 2000, provided helpful clarifications but did not resolve the dispute. Therefore, on November 10, 2000, filed a request for the establishment of a panel as well as an additional request for consultations on Mexico's newly issued measures. Those consultations were held on January 16, 2001. At that time, the United

States decided not to pursue its panel request further given progress subsequently achieved in Mexico's domestic telecommunications market. For instance, Mexico reduced domestic interconnection rates and introduced measures to regulate Telmex as a dominant carrier. However, Mexico has taken no steps to address U.S. concerns regarding the anti-competitive nature of its international telecommunications regime, including the exorbitant interconnection rates that Telmex charges U.S. operators to complete calls into Mexico. Therefore, on February 13, 2002, the United States filed a new request for a panel to examine these unresolved issues. The panel was established on April 17, 2002. On August 26, 2002, the Director General composed the panel as follows: Mr. Ernst-Ulrich Petersmann, Chairman; Mr. Raymond Tam and Mr. Björn Wellenius, Members.

12. *Mexico—Definitive antidumping measures on beef and rice (WT/DS295)*

On June 16, 2003, the United States requested consultations on Mexico's antidumping measures on rice and beef, as well as certain provisions of Mexico's Foreign Trade Act and its Federal Code of Civil Procedure. The specific U.S. concerns include: (1) Mexico's injury investigations in the two antidumping determinations; (2) Mexico's failure to terminate the rice investigation after a negative preliminary injury determination and its decision to include firms that were not dumping in the coverage of the antidumping measures; (3) Mexico's improper application of the "facts available"; (4) Mexico's improper calculation of the antidumping rate applied to non-investigated exporters; (5) Mexico's improper limitation of the antidumping rates it calculated in the beef investigation; (6) Mexico's refusal to conduct reviews of exporters' antidumping rates; and (7) Mexico's insufficient public determinations. The United States also challenged five provisions of Mexico's Foreign Trade Act. The United States alleges violations of various provisions of the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures, and the GATT 1994. Consultations were held July 31 and August 1, 2003. The United States requested the establishment of a panel on the measure on rice on September 19, 2003, and the DSB established a panel on November 7, 2003. On February 13, 2004, the Director General composed the panel as follows: Mr. Crawford Falconer, Chair, and Ms. Marta Calmon Lemme and Ms. Enie Neri De Ross, Members. Consultations on the measure on beef continue.

13. *Venezuela—Import licensing measures on certain agricultural products (WT/DS275)*

On November 7, 2002, the United States requested consultations with Venezuela regarding import licensing measures on certain agricultural products. Venezuela has established import licensing and permit requirements for numerous agricultural products that appear to establish a discretionary import licensing regime, and that fail to establish a transparent and predictable system for issuing import licenses. These measures severely restrict and distort trade in these goods, and appear to be in violation of provisions of the Agreement on Agriculture, the GATT 1994, and the Import Licensing Agreement. Consultations were held November 26, 2002.

B. Proceedings in which the United States is a defendant

1. *United States—Tax treatment for “foreign sales corporations (“FSC”) (WT/DS108)*

The EU challenged the FSC provisions of the U.S. tax law, claiming that the provisions constitute prohibited export subsidies and import substitution subsidies under the Subsidies Agreement, and that they violate the export subsidy provisions of the Agreement on Agriculture. A panel was established on September 22, 1998. On November 9, 1998, the following panelists were selected, with the consent of the parties, to review the EU claims: Mr. Crawford Falconer, Chairman; Mr. Didier Chambovey and Mr. Seung Wha Chang, Members. The panel found that the FSC tax exemption constitutes a prohibited export subsidy under the Subsidies Agreement, and also violates U.S. obligations under the Agreement on Agriculture. The panel did not make findings regarding the FSC administrative pricing rules or the EU's import substitution subsidy claims. The panel recommended that the United States withdraw the subsidy by October 1, 2000. The panel report was circulated on October 8, 1999 and the United States filed its notice of appeal on November 26, 1999. The Appellate Body circulated its report on February 24, 2000. The Appellate Body upheld the panel's finding that the FSC tax exemption constitutes a prohibited export subsidy under the Subsidies Agreement, but, like the panel, declined to address the FSC administrative pricing rules or the EU's import substitution subsidy claims. While the Appellate Body reversed the panel's findings regarding the Agreement on Agriculture, it found that the FSC tax exemption violated provisions of that Agreement other than the ones cited by the panel. The panel and Appellate Body reports were adopted on March 20, 2000, and on April 7, 2000, the United States announced its intention to respect its WTO obligations. On November 15, 2000, the President signed legislation that repealed and replaced the FSC provisions, but the EU claimed that the new legislation failed to bring the US into compliance with its WTO obligations.

In anticipation of a dispute over compliance, the United States and EU reached agreement in September 2000 on the procedures to review U.S. compliance with the WTO recommendations and rulings. Pursuant to a request approved by the WTO, the deadline for U.S. compliance was changed from October 1, 2000, as recommended by the panel, to November 1, 2000. The procedural agreement also outlined certain procedural steps to be taken after passage of US legislation to replace the FSC. The essential feature of the agreement provided for sequencing of WTO procedures as follows: (1) a panel would determine the WTO-consistency of FSC replacement legislation (the parties retained the right to appeal); (2) only after the appeal process was exhausted would arbitration over the appropriate level of retaliation be conducted if the replacement legislation was found WTO-inconsistent. Pursuant to the procedural agreement, on November 17, the EU requested authority to impose countermeasures and suspend concessions in the amount of \$4.043 billion. On November 27, the United States objected to this amount, thereby referring the matter to arbitration, which was then suspended pending a review of the legislation's WTO-consistency. On December 7, the EU requested establishment of a panel to review the legislation, and the panel was reestablished for this purpose on December 20, 2000.

In a report circulated on August 20, 2001, the panel found that the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 does not bring the United States into conformity with its WTO obligations. The United States appealed the panel ruling on October 15, 2001. On January 14, 2001, the Appellate Body affirmed the findings of the panel. On January 29, 2002, the panel and Appellate Body reports were adopted, and the suspended arbitration to determine the amount of concessions was reactivated, with the original panelists serving as the arbitration panel pursuant to the procedural agreement. The arbitration panel circulated its report on August 30, 2002, and found that the EU was entitled to impose trade sanctions in the amount of \$4.043 billion. On May 7, 2003, the DSB granted the EC authorization to suspend concessions consistent with the decision of the arbitrator. On December 8, 2003, the Council of the European Union adopted Council Regulation (EC) No. 2193/2003, which provides for the graduated imposition of countermeasures beginning on March 1, 2004.

2. *United States—Antidumping Act of 1916 (WT/DS136, 162)*

Title VII of the Revenue Act of 1916 (15 U.S.C. §§ 71-74, entitled “Unfair Competition”), often referred to as the Antidumping Act of 1916, allows for private claims against, and criminal prosecutions of, parties that import or assist in importing goods into the United States at a price substantially less than the actual market value or wholesale price. On April 1, 1999, the following panelists were selected, with the consent of the parties, to review the EU claims: Mr. Johann Human, Chairman; Mr. Dimitrij Grëar and Mr. Eugeniusz Piontek, Members. On January 29, 1999, the panel found that the 1916 Act is inconsistent with WTO rules because the specific intent requirement of the Act does not satisfy the material injury test required by the Antidumping Agreement. The panel also found that civil and criminal penalties in the 1916 Act go beyond the provisions of the Antidumping Agreement. The panel report was circulated on March 31, 2000. Separately, Japan sought its own rulings on the same matter from the same panelists; that report was circulated on May 29, 2000. On the same day, the United States filed notices of appeal for both cases, which were consolidated into one Appellate Body proceeding. The Appellate Body report, issued August 28, 2000, affirmed the panel reports. This ruling, however, has no effect on the U.S. antidumping law, as codified in the Tariff Act of 1930, as amended. The panel and Appellate Body reports were adopted by the DSB on September 26, 2000.

On November 17, 2000, the EU and Japan requested arbitration to determine the period of time to be given the United States to implement the panel’s recommendation. By mutual agreement of the parties, Mr. A.V. Ganesan was appointed to serve as arbitrator. On February 28, 2001, he determined that the deadline for implementation was July 26, 2001. On July 24, the DSB approved a U.S. proposal to extend the deadline until the earlier of the end of the then-current session of the U.S. Congress or December 31, 2001. Legislation to repeal the Act and extinguish cases pending under the Act was introduced in the House on December 20, 2001, but no action was taken. Legislation repealing the Act and terminating pending cases was again introduced in the Senate on May 19, 2003, and repeal legislation that would not terminate pending cases was introduced in the House on March 4, 2003 and in the Senate on May 23, 2003.

On January 17, 2002, the United States objected to proposals by the EU and Japan to suspend concessions, thereby referring the matter to arbitration. On February 20, 2002, the following individuals were selected by mutual agreement of the parties to serve as Arbitrator: Mr. Dimitrij Grear, Chair; Mr. Brendan McGivern and Mr. Eugeniusz Piontek, Members. At the request of the United States, the Arbitrator suspended its work on March 4, 2002, in light of on-going efforts to resolve the dispute. On September 19, 2003, the EU requested that its arbitration resume.

On February 24, 2003, the Arbitrator issued its award in the arbitration.. The Arbitrator stated that the EU has no current right to retaliate against the United States. While it refused to approve or disapprove of the regulation proposed by the EU (which would resemble the 1916 Act in some respects), it found that the EU had to limit any retaliation to the amount of quantifiable final judgments or settlements under the 1916 Act. As of February 24, 2003, there were no such judgments or settlements against EU companies.

3. *United States—Section 110(5) of U.S. Copyright Act (WT/DS160)*

As amended in 1998 by the Fairness in Music Licensing Act, section 110(5) of the U.S. Copyright Act permits certain retail establishments to play radio or television music without paying royalties to songwriters and music publishers. The EU claimed that, as a result of this exception, the United States is in violation of its TRIPS obligations. Consultations with the EU took place on March 2, 1999. A panel on this matter was established on May 26, 1999. On August 6, 1999, the Director General composed the panel as follows: Ms. Carmen Luz Guarda, Chair; Mr. Arumugamangalam V. Ganesan and Mr. Ian F. Sheppard, Members. The panel issued its final report on June 15, 2000, and found that one of the two exemptions found in section 110(5) is inconsistent with the United States' WTO obligations. The panel report was adopted by the DSB on July 27, 2000, and the United States informed the DSB of its intention to respect its WTO obligations. On October 23, 2000, the EU requested arbitration to determine the period of time to be given the United States to implement the panel's recommendation. By mutual agreement of the parties, Mr. J. Lacarte-Muró was appointed to serve as arbitrator. He determined that the reasonable period of time for implementation would expire on July 27, 2001. On July 24, the DSB approved a U.S. proposal to extend the reasonable period of time for implementation until the earlier of the end of the then-current session of the U.S. Congress or December 31, 2001.

On July 23, 2001, the United States and the EU requested arbitration to determine the level of nullification or impairment of benefits accruing to the EU as a result of Section 110(5)(B). The Director General composed the arbitration panel as follows: Mr. Ian F. Sheppard, Chair; Ms. Margaret Liang and Mr. David Vivas-Eugui, Members. In a decision circulated to WTO Members on November 9, 2001, the arbitrators determined that the value of the benefits lost to the EU in this case is \$1.1 million.

On January 7, 2002, the EU requested authorization to suspend certain WTO obligations because the United States had not implemented the recommendations of the DSB. The United States objected to the request on January 17, 2002, and the matter was referred to arbitration. The parties agreed that the arbitration should be carried out by the same individuals that served in the earlier arbitration proceeding in the case. On February 27, 2002, the panel suspended the arbitration at the joint request of the U.S. and the EU, in light of ongoing efforts to resolve the issue.

On June 23, 2003, the United States and the EU notified to the WTO a mutually satisfactory temporary arrangement regarding the dispute. Pursuant to this arrangement, the United States made a lump-sum payment of \$3.3 million to the EU, to a fund established to finance activities of general interest to music copyright holders, in particular awareness-raising campaigns at the national and international level and activities to combat piracy in the digital network. The arrangement covers the three-year period ending December 21, 2004.

4. *United States—Section 211 Omnibus Appropriations Act of 1998 (WT/DS176)*

Section 211 addresses the ability to register or enforce, without the consent of previous owners, trademarks or trade names associated with businesses confiscated without compensation by the Cuban government. The EU questions the consistency of Section 211 with the TRIPS Agreement, and it requested consultations on July 7, 1999. Consultations were held September 13 and December 13, 1999. On June 30, 2000, the EU requested a panel. A panel was established on September 26, 2000, and at the request of the EU the Director General composed the panel on October 26, 2000, as follows: Mr. Wade Armstrong, Chairman; Mr. François Dessemontet and Mr. Armand de Mestral, Members. The panel report was circulated on August 6, 2001, rejecting 13 of the EU's 14 claims and finding that, in most respects, section 211 is not inconsistent with the obligations of the United States under the TRIPS Agreement. The EU appealed the panel report on October 4, 2001. The Appellate Body issued its report on January 2, 2002. The Appellate Body reversed the panel's one finding against the United States, and upheld the panel's favorable findings that WTO members are entitled to determine trademark and trade name ownership criteria. The Appellate Body found certain instances, however, in which section 211 might breach national treatment and most favored nation obligations of the TRIPS Agreement. The Appellate Body and panel reports were adopted on February 1, 2002, and the United States informed the DSB of its intention to respect its WTO obligations. On December 19, 2003, the EU and the United States agreed to extend the reasonable period of time for implementation until December 31, 2004.

5. *United States—Antidumping measures on certain hot-rolled steel products from Japan (WT/DS184)*

Japan alleged that the preliminary and final determinations of the Department of Commerce and the USITC in their antidumping investigations of certain hot-rolled steel products from Japan, issued on November 25 and 30, 1998, February 12, 1999, April 28, 1999, and June 23, 1999,

were erroneous and based on deficient procedures under the U.S. Tariff Act of 1930 and related regulations. Japan claimed that these procedures and regulations violate the GATT 1994, as well as the Antidumping Agreement. Consultations were held on January 13, 2000, and a panel was established on March 20, 2000. In May 1999, the Director General composed the panel as follows: Mr. Harsha V. Singh, Chairman; Mr. Yanyong Phuangrath and Ms. Lidia di Vico, Members. On February 28, 2001, the panel circulated its report, in which it rejected most of Japan's claims, but found that particular aspects of the antidumping duty calculation were inconsistent with the WTO Antidumping Agreement. On April 25, 2001, the United States filed a notice of appeal on certain issues in the panel report. The Appellate Body report was issued on July 24, 2001, reversing in part and affirming in part. On September 10, 2001, at a meeting of the DSB, the United States stated its intention to implement the recommendations and rulings of the DSB in a manner that respects U.S. WTO obligations, and that it would need a reasonable period of time in which to do so. The United States and Japan were unable to reach agreement on a reasonable period of time for compliance, and on November 20, 2001, Japan referred the question to arbitration. By mutual agreement of the parties, Mr. Florentino P. Feliciano was appointed to serve as arbitrator. On February 19, 2002, he determined that the reasonable period of time for implementation will expire on November 23, 2002. On December 10, 2003, the DSB agreed to extend the reasonable period of time for implementation until July 31, 2004.

6. *United States—Countervailing duty measures concerning certain products from the European Communities (WT/DS212)*

On November 13, 2000, the EU requested WTO dispute settlement consultations concerning determinations made in various U.S. countervailing duty (CVD) proceedings covering imports from member states of the EU, all such determinations involving the Department of Commerce's "change in ownership" (or "privatization") methodology. Previously, the EU had successfully challenged Commerce's methodology in a WTO dispute concerning leaded steel products from the UK. Consultations were held December 7, 2000. Further consultations were requested on February 1, 2001, and held on April 3. Eventually, the EU requested the establishment of a panel with respect to determinations in 12 CVD determinations involving imported steel products from EU member states. The EU's challenged the continued application of the methodology at issue in the UK leaded steel products case, as well as the new methodology devised by Commerce to replace it. A panel was established on September 10, 2001, and at the request of the EU the Director General composed the panel on November 5, 2001, as follows: Mr. Gilles Gauthier, Chairman; Ms. Marie-Gabrielle Ineichen-Fleisch and Mr. Michael Mulgrew, Members. In its final report, issued July 31, 2002, the panel found both the old and new Commerce privatization methodologies to be inconsistent with the WTO Subsidies Agreement. In addition, the panel found section 771(5)(F) of the Tariff Act of 1930 – the "privatization" provision in the CVD statute – to be WTO-inconsistent based on its conclusion that the provision precludes Commerce from acting in a WTO-consistent manner. The United States appealed the report on September 9, 2002. The Appellate Body issued its report on December 9, 2002. The Appellate Body affirmed the panel's finding that Commerce's methodology is inconsistent with the Subsidies Agreement, but disagreed with some of the panel's reasoning. In particular, the

Appellate Body disagreed with the panel that an arm's length sale of a government-owned firm for fair market value always extinguishes prior subsidies. Instead, according to the Appellate Body, such a transaction creates merely a rebuttable presumption that prior subsidies are extinguished.

The DSB adopted the panel and Appellate Body reports on January 8, 2003. The United States stated its intention to implement the DSB recommendations and rulings on January 27, 2003. On April 10, 2003, the EC and the United States agreed that the reasonable period of time for implementation will expire on November 8, 2003. Commerce modified its methodology for analyzing a privatization in the context of the CVD law, and issued revised determinations under section 129 of the Uruguay Round Agreements Act, revoking two CVD orders in whole and one CVD order in part, and, in the case of five CVD orders, revising the cash deposit rates for certain companies. The United States stated that it had complied with the DSB recommendations and rulings at a DSB meeting on November 7, 2003.

7. *United States—Countervailing duties on certain corrosion-resistant carbon steel flat products from Germany (WT/DS213)*

Also on November 13, 2000, the EU requested dispute settlement consultations with respect to the Department of Commerce's countervailing duty order on certain corrosion-resistant flat rolled steel products from Germany. In a "sunset review", the Department of Commerce declined to revoke the order based on a finding that subsidization would continue at a rate of 0.54 percent. The EU alleges that this action violates the Subsidies Agreement, asserting that countervailing duty orders must be revoked where the rate of subsidization found is less than the 1 percent de minimis standard for initial countervailing duty investigations. The United States and the EU held consultations pursuant to this request on December 8, 2000. A second round of consultations was held on March 21, 2001. A panel was established at the EU's request on September 10, 2001. The Director General composed the panel as follows: Mr. Hugh McPhail, Chair, and Mr. Wieslaw Karsz and Mr. Ronald Erdmann, Members. The panel circulated its report on July 3, 2002. In its report, the panel found that the U.S. system of automatically self-initiating sunset reviews is WTO-consistent and that U.S. law, as such, is not inconsistent with the obligation to determine whether future subsidization is likely. However, the panel found that Commerce's failure to apply the 1 percent de minimis standard for CVD investigations to sunset reviews is WTO-inconsistent. The panel also found that Commerce's decision in the German steel sunset review was overly simplistic and lacked a sufficient factual basis. The United States appealed the report on August 30, 2002.

On November 28, 2002, the Appellate Body issued its report. The Appellate Body affirmed the findings of the panel that the EU had appealed, and reversed the panel's finding regarding the de minimis standard that the U.S. had appealed. The DSB adopted the panel and Appellate Body reports on December 19, 2002. The United States stated its intention to implement the DSB recommendations on January 17, 2003.

8. *United States—Continued Dumping and Subsidy Offset Act of 2000 (“CDSOA”) (WT/DS217, 234)*

On December 21, 2000, Australia, Brazil, Chile, the EU, India, Indonesia, Japan, Korea, and Thailand requested consultations with the United States regarding the Continued Dumping and Subsidy Offset Act of 2000 (19 USC 754), which amended Title VII of the Tariff Act of 1930 to transfer import duties collected under U.S. antidumping and countervailing duty orders from the U.S. Treasury to the companies that filed the antidumping and countervailing duty petitions. Consultations were held on February 6, 2001. On May 21, 2001, Canada and Mexico also requested consultations on the same matter, which were held on June 29, 2001. On July 12, 2001, the original nine complaining parties requested the establishment of a panel, which was established on August 23. On September 10, 2001, a panel was established at the request of Canada and Mexico, and all complaints were consolidated into one panel. The Director General composed the panel as follows: Mr. Luzius Wasescha, Chair, and Mr. Maamoun Abdel-Fattah and Mr. William Falconer, Members. The panel’s final report, circulated on September 16, 2002, found that the CDSOA is an impermissible action against dumping and subsidies under the WTO Antidumping and Subsidies Agreements, respectively. It also found that the CDSOA violates the standing provisions of these agreements. The United States appealed the panel’s report on October 1, 2002. The Appellate Body issued its report on January 16, 2003, upholding the panel’s finding that the CDSOA is an impermissible action against dumping and subsidies, but reversing the panel’s finding on standing. The DSB adopted the panel and Appellate Body reports on January 27, 2003. At that meeting, the United States stated its intention to implement the DSB recommendations and rulings. On March 14, 2003, the complaining parties requested arbitration to determine a reasonable period of time for implementation. On June 13, 2003, the arbitrator determined that this period would end on December 27, 2003. On June 19, 2003, legislation to bring the Continued Dumping and Subsidy Offset Act into conformity with U.S. obligations under the AD Agreement, the SCM Agreement and the GATT of 1994 was introduced in the U.S. Senate (S. 1299).

On January 15, 2004, eight complaining parties (Brazil, Canada, Chile, EU, India, Japan, Korea, and Mexico) requested WTO authorization to retaliate. The remaining three complaining parties (Australia, Indonesia and Thailand) agreed to extend to December 27, 2004, the period of time in which the United States has to comply with the WTO rulings and recommendations in this dispute. On January 23, 2004, the United States objected to the requests from the eight complaining parties to retaliate, thereby referring the matter to arbitration.

9. *United States—Countervailing duties on certain carbon steel products from Brazil (WT/DS218)*

On December 21, 2000, Brazil requested consultations with the United States regarding U.S. countervailing duties on certain carbon steel products from Brazil, alleging that the Department of Commerce’s “change in ownership” (or “privatization”) methodology, which was ruled inconsistent with the WTO Subsidies Agreement when applied to leaded steel products from the

UK, violates the Subsidies Agreement in this situation as well. Consultations were held on January 17, 2001. Brazil has not yet requested the establishment of a panel.

10. United States—Antidumping duties on imports of seamless pipe from Italy (WT/DS225)

On February 5, 2001, the EU requested consultations with the United States regarding antidumping duties imposed by the United States on seamless line and pressure pipe from Italy, complaining about the final results of a “sunset” review of that antidumping order, as well as the procedures followed by the Department of Commerce generally for initiating “sunset” reviews pursuant to Section 751 of the Tariff Act of 1930 and 19 CFR §351. The EU alleges that these measures violate the WTO Antidumping Agreement. Consultations were held on March 21, 2001. The EU has not yet requested a panel.

11. United States—Certain measures regarding antidumping methodology (WT/DS239)

On September 18, 2001, the United States received from Brazil a request for consultations regarding the *de minimis* standard as applied by the U.S. Department of Commerce in conducting reviews of antidumping orders, and the practice of “zeroing” in conducting investigations and reviews. Brazil submitted a revised request on November 1, 2001, focusing specifically on the antidumping duty order on silicon metal from Brazil. Consultations were held on December 7, 2001. Brazil has not yet requested a panel.

12. United States—Sunset review of antidumping duties on corrosion-resistant carbon steel flat products from Japan (WT/DS244)

On January 30, 2002, the United States received from Japan a request for consultations regarding the Department of Commerce and International Trade Commission determinations in a sunset review of an antidumping duty order on Corrosion Resistant Carbon Steel Flat Products from Japan. Japan raises several concerns, including the automatic initiation of a sunset review without sufficient evidence; the standard used to determine whether to revoke or terminate an order; the use of the original dumping margin; the determination that continued dumping is likely on an order-wide rather than company-specific basis; and the use of “zeroing”, a *de minimis* margin of 0.5%, and cumulation. Consultations were held March 14, 2002. Japan requested the establishment of a panel on April 4, 2002, and a panel was established on May 22, 2002. The Director General composed the panel as follows: Mr. Dariusz Rosati, Chairman, and Mr. David Unterhalter and Mr. Martin Garcia, Members.

In its report circulated on August 14, 2003, the panel found that the United States acted consistently with its international obligations under the WTO in conducting this sunset review. The panel found that Commerce may automatically initiate a sunset review; that U.S. law contains proper standards for conducting sunset reviews; that the *de minimis* and negligibility provisions in the Antidumping Agreement apply only to investigations, not sunset reviews; that U.S. administrative practice can only be challenged with respect to its application in a particular

sunset review, not “as such”; and that Commerce and the ITC properly conducted this particular sunset review. Japan appealed the report on September 15, 2003.

The Appellate Body issued its report on December 15, 2003. The Appellate Body agreed that the United States may maintain the antidumping duty order at issue. The Appellate Body, however, reversed the panel’s conclusion that the Sunset Policy Bulletin is not a measure that can be challenged in WTO dispute settlement. The DSB adopted the panel and Appellate Body reports on January 9, 2004.

13. *United States—Provisional antidumping measure on imports of certain softwood lumber from Canada (WT/DS247)*

On March 6, 2002, the United States received from Canada a request for consultations regarding the Department of Commerce’s preliminary affirmative determination of sales at less than fair value of certain softwood lumber from Canada. Canada contests the initiation of the investigation, based on concerns about the sufficiency of evidence presented in the petition. Canada further asserts that Commerce, in calculating the margin of dumping, made improper price comparisons between sales in the home market and sales in the U.S. market. Canada also challenges the “zeroing” methodology applied by Commerce. Consultations were held April 5, 2002. Canada has not yet requested a panel.

14. *United States—Equalizing excise tax imposed by Florida on processed orange and grapefruit products (WT/DS250)*

On March 20, 2002, the United States received from Brazil a request for consultations pertaining to the “Equalizing Excise Tax” imposed by the State of Florida on processed orange and grapefruit products produced from citrus fruit grown outside the United States. Brazil claims that the application of the tax to imported processed citrus products differs from the tax treatment of domestic citrus and citrus products in several respects, in violation of Articles II:1(a), III:1 and III:2 of GATT 1994. Brazil further claims that the proceeds of the tax are directed, by the Florida statute, to the promotion of Florida citrus and citrus products, with no promotion of imported citrus or citrus products, in violation of Articles III:1 and III:4 of GATT 1994. Consultations were held May 2, 2002, and June 27, 2002. Brazil requested the establishment of a panel on August 16, 2002. The DSB established a panel on October 1, 2002.

15. *United States—Final countervailing duty determination with respect to certain softwood lumber from Canada (WT/DS257)*

On May 3, 2002, Canada requested consultations with the United States on the U.S. Department of Commerce’s final countervailing duty determination concerning certain softwood lumber from Canada. Among other things, Canada challenged the evidence upon which the investigation was initiated and claimed that the Commerce Department incorrectly determined that the provision of low-cost timber to lumber companies was a subsidy, incorrectly measured the amount of subsidy, and failed to conduct its investigation properly. Consultations were held on June 18, 2002, and a

panel was established at Canada's request on October 1, 2002. The panel was composed of Mr. Elbio Rosselli, Chair, and Mr. Weislaw Karsz and Mr. Remo Moretta, Members.

In a report circulated on August 29, 2003, the panel found that the United States acted consistently with the SCM Agreement and GATT 1994 in determining that the programs at issue provided a financial contribution and that those programs were "specific" within the meaning of the SCM Agreement. It also found, however, that the United States had acted inconsistently with the SCM Agreement when it rejected private timber prices in Canada as the benchmark to determine whether – and to what extent – Canada was subsidizing lumber companies by providing low-cost timber. The Commerce Department had used U.S. prices as the basis for the benchmark, rejecting Canadian private prices because they were distorted by the government's dominance in the timber market. The panel also found that the United States had improperly failed to conduct a "pass-through" analysis to determine whether subsidies granted to one producer were passed through to other producers. The United States appealed these issues to the WTO Appellate Body on October 21, 2003, and Canada appealed the "financial contribution" issue on November 5, 2003.

On January 19, 2004, the WTO Appellate Body issued a report finding in favor of the United States in all key respects. The Appellate Body reversed the panel's unfavorable finding with respect to the rejection of Canadian prices as a benchmark; upheld the panel's favorable finding that the provincial governments' provision of low-cost timber to lumber producers constituted a "financial contribution" under the SCM Agreement; and reversed the panel's unfavorable finding that the Commerce Department should have conducted a "pass-through" analysis to determine whether subsidies granted to one lumber company were passed through to other lumber companies through the sale of subsidized lumber. The Appellate Body's only finding against the United States was that the Commerce Department should have conducted such a pass-through analysis with respect to the sale of logs from harvester/sawmills to unrelated sawmills. The DSB adopted the panel and Appellate Body reports on February 17, 2004. The United States stated its intention to implement the DSB recommendations and rulings on March 5, 2004.

16. *United States—Sunset reviews of antidumping and countervailing duty orders on certain steel products from the EC (WT/DS262)*

On July 25, 2002, the United States received from the EC a request for consultations regarding ITC and Commerce determinations made in sunset reviews of the antidumping and countervailing duty orders on corrosion-resistant steel from France and Germany and the antidumping and countervailing duty orders on cut-to-length steel from Germany. The EC request also concerns certain provisions and procedures contained in the Tariff Act of 1930, Commerce's regulations, and Commerce's so-called Sunset Policy Bulletin. The EC raises several concerns, including the alleged presumption of continued dumping or subsidization where a party waives its participation in a Commerce sunset review; the application of a 0.5 percent *de minimis* standard in antidumping sunset reviews; the criteria for conducting a cumulative injury analysis and the decision of the ITC to use a cumulative analysis; the

assessment of the likely volume of imports in a sunset review; and the alleged failure of the ITC to use publicly available information as a substitute for missing information. Consultations were held September 12, 2002.

17. *United States—Final dumping determination on softwood lumber from Canada (WT/DS264)*

On September 13, 2002, Canada requested consultations regarding the Department of Commerce's amended final determination of sales at less than fair value of certain softwood lumber from Canada, along with the antidumping duty order with respect to imports of the subject products. Canada contests the initiation of the investigation, arguing that the petition did not contain sufficient evidence to justify initiation and that the Byrd Amendment precludes an objective examination of the degree of support for the petition. Canada further asserts that Commerce, in calculating the margin of dumping, made improper comparisons between sales in the home market and sales in the U.S. market. Canada also challenges Commerce's conduct of the investigation, arguing that Commerce failed to issue timely decisions and provide reasonable briefing schedules. Consultations were held October 11, 2002. Canada requested the establishment of a panel on December 6, 2002, and the DSB established a panel on January 8, 2003. On February 25, 2003, the parties agreed on the panelists, as follows: Mr. Harsha V. Singh, Chairman, and Mr. Gerhard Hannes Welge and Mr. Adrian Makuc, Members.

18. *United States—Subsidies on upland cotton (WT/DS267)*

On September 27, 2002, the United States received from Brazil a request for consultations pursuant to Articles 4.1, 7.1 and 30 of the *Agreement on Subsidies and Countervailing Measures*, Article 19 of the *Agreement on Agriculture*, Article XXII of the *General Agreement on Tariffs and Trade 1994*, and Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*. The Brazilian letter requests consultations pertaining to "prohibited and actionable subsidies provided to U.S. producers, users and/or exporters of upland cotton, as well as legislation, regulations, statutory instruments and amendments thereto providing such subsidies (including export credits), grants, and any other assistance to the U.S. producers, users and exporters of upland cotton [footnote omitted]." Brazil claims that these alleged subsidies and measures are inconsistent with U.S. commitments and obligations under the *Agreement on Subsidies and Countervailing Measures*, the *Agreement on Agriculture*, and the *General Agreement on Tariffs and Trade 1994*. Consultations were held December 3-4, 2002. A second round of consultations was held January 17, 2003. Brazil requested the establishment of a panel on February 6, 2003. The DSB established a panel on March 18, 2003. The Director General composed the panel as follows: Mr. Dariusz Rosati, Chairman, and Mr. Mario Matus and Mr. Daniel Moulis, Members.

19. United States—Sunset review of anti-dumping measures on oil country tubular goods from Argentina (WT/DS268)

On October 7, 2002, Argentina requested consultations regarding DOC and ITC determinations in the sunset review of the antidumping duty order on oil country tubular goods from Argentina, as well as the DOC's determination to continue the order. Argentina also identifies as measures sections 751(c) and 752 of the Tariff Act of 1930, the URAA Statement of Administrative Action, the sunset review regulations of the DOC and the ITC, and the DOC Sunset Policy Bulletin. The specific concerns raised by Argentina are: (1) the DOC's evidentiary standard for initiating a sunset review; (2) the DOC's use of a 0.5 percent *de minimis* standard, as opposed to the 2 percent standard for investigations; (3) the DOC's application of the "likelihood" standard; (4) the U.S. standard for determining whether continued or recurring injury is "likely"; (5) the alleged failure by the ITC to conduct an "objective examination"; and (6) the statutory provisions addressing the time period within which the ITC is to assess the likelihood of continued or recurring injury. Argentina alleges violations of various provisions of the Antidumping Agreement, GATT 1994 and Article XVI:4 of the WTO Agreement. Consultations were held November 14, 2002. Argentina requested the establishment of a panel on April 3, 2003. The DSB established a panel on May 19, 2003. On September 4, 2003, the Director General composed the panel as follows: Mr. Paul O'Connor, Chairman, and Mr. Bruce Cullen and Mr. Faizullah Khilji, Members.

20. United States—Investigation of the International Trade Commission in softwood lumber from Canada (WT/DS277)

On December 20, 2002, Canada requested consultations with the United States on the USITC's final determination in its investigations concerning softwood lumber from Canada. The Commission determined that an industry in the United States is threatened with material injury by reason of imports from Canada found to be subsidized and sold in the United States at less than fair value. Canada alleges four flaws in the ITC's determination: (i) basing threat determination on "allegation, conjecture, and remote possibility"; (ii) failing to establish that circumstances that would convert threatened injury into actual injury are "clearly foreseen and imminent"; (iii) "failing to properly consider all factors relevant to determining the existence of a threat of material injury"; and (iv) failing to properly consider the impact of dumped and subsidized imports on the domestic industry. More generally, Canada alleges that the ITC's report lacked "sufficient detail, relevant information and considerations, and proper reasons." Consultations were held January 22, 2003. Canada requested the establishment of a panel on April 3, 2003, and the DSB established a panel on May 7, 2003. On June 19, 2003, the Director General composed the panel as follows: Mr. Hardeep Singh Puri, Chairman, and Mr. Paul O'Connor and Ms. Luz Elena Reyes De La Torre, Members.

21. United States—Countervailing duties on steel plate from Mexico (WT/DS280)

On January 21, 2003, Mexico requested consultations on an administrative review of a countervailing duty order on carbon steel plate in sheets from Mexico. Mexico alleges that the

Department of Commerce used a WTO-inconsistent methodology – the “change-in-ownership” methodology – to determine the existence of countervailable benefits bestowed on a Mexican steel producer. Mexico alleges inconsistency with various articles of the WTO Agreement on Subsidies and Countervailing Measures. Consultations were held April 2-4, 2003. Mexico requested the establishment of a panel on August 4, 2003, and the DSB established a panel on August 29, 2003.

22. *United States—Anti-dumping measures on cement from Mexico (WT/DS281)*

On January 31, 2003, Mexico requested consultations regarding a variety of administrative determinations made in connection with the antidumping duty order on gray portland cement and cement clinker from Mexico, including seven administrative review determinations by Commerce, the sunset determinations of Commerce and the ITC, and the ITC’s refusal to conduct a changed circumstances review. Mexico also challenges certain provisions and procedures contained in the Tariff Act of 1930, the regulations of Commerce and the ITC, and Commerce’s Sunset Policy Bulletin, as well as the URAA Statement of Administrative Action. Mexico raises a host of concerns, including case-specific dumping calculation issues; Commerce’s practice of zeroing; the analytical standards used by Commerce and the ITC in sunset reviews; the U.S. retrospective system of duty assessment, including the assessment of interest; and the assessment of duties in regional industry cases. Consultations were held April 2-4, 2003. Mexico requested the establishment of a panel on July 29, 2003, and the DSB established a panel on August 29, 2003.

23. *United States—Anti-dumping measures on oil country tubular goods (OCTG) from Mexico (WT/DS282)*

On February 18, 2003, Mexico requested consultations regarding several administrative determinations made in connection with the antidumping duty order on oil country tubular goods from Mexico, including the sunset review determinations of Commerce and the ITC. Mexico also challenges certain provisions and procedures contained in the Tariff Act of 1930, the regulations of Commerce and the ITC, and Commerce’s Sunset Policy Bulletin, as well as the URAA Statement of Administrative Action. The focus of this case appears to be on the analytical standards used by Commerce and the ITC in sunset reviews, although Mexico also challenges certain aspects of Commerce’s antidumping methodology. Consultations were held April 2-4, 2003. Mexico requested the establishment of a panel on July 29, 2003, and the DSB established a panel on August 29, 2003. On February 11, 2003, the following panelists were selected, with the consent of the parties, to review Mexico’s claims: Mr. Christer Manhusen, Chairman; Mr. Alistair James Stewart and Ms. Stephanie Sin Far Man, Members.

24. *United States—Measures affecting the cross-border supply of gambling and betting services (WT/DS285)*

On March 13, 2003, the United States received from Antigua & Barbuda a request for consultations regarding its claim that U.S. federal, state and territorial laws on gambling violate

U.S. specific commitments under the GATS, as well as Articles VI, XI, XVI, and XVII of the GATS, to the extent that such laws prevent or can prevent operators from Antigua and Barbuda from lawfully offering gambling and betting services in the United States. Antigua & Barbuda revised its request for consultations on April 1, 2003. Consultations were held on April 30, 2003. Antigua & Barbuda requested the establishment of a panel on June 12, 2003. The DSB established a panel on July 21, 2003. On August 25, 2003, the Director General composed the panel as follows: Mr. B. K. Zutshi, Chairman, and Mr. Virachai Plasai and Mr. Richard Plender, Members.

25. *United States—Laws, regulations and methodology for calculating dumping margins (“zeroing”) (WT/DS294)*

On June 12, 2003, the European Communities requested consultations regarding the use of "zeroing" in the calculation of dumping margins. Consultations were held July 17, 2003. The EC requested further consultations on September 8, 2003. Consultations were held October 6, 2003. The EC requested the establishment of a panel on February 5, 2004.

26. *United States—Countervailing duty investigation on dynamic random access memory semiconductors (DRAMS) from Korea (WT/DS296)*

On June 30, 2003, Korea requested consultations regarding determinations made in the countervailing duty investigation on DRAMS from Korea, and related laws and regulations. Consultations were held August 20, 2003. Korea requested further consultations on August 18, 2003, which were held October 1, 2003. Korea requested the establishment of a panel on November 19, 2003. The panel request covered only the Commerce and ITC determinations made in the DRAMS investigation. The DSB established a panel on January 23, 2004. On March 5, 2004, the Director General composed the panel as follows: H. E. Mr. Hardeep Puri, Chair, and Mr. John Adank and Mr. Michael Mulgrew, Members.

II. NAFTA - CHAPTER 20

A. Proceedings in which the United States is a plaintiff

No current actions.

B. Proceedings in which the United States is a defendant

1. *Mexico—Sugar TRQ*

On March 13, 1998, Mexico requested consultations with the United States under NAFTA Chapter 20 concerning the implementation of the U.S. TRQ on sugar. Consultations were held on April 15, 1998. On January 7, 1999, Mexico requested a meeting of the NAFTA Commission on this issue, and the meeting was held on November 17, 1999. Mexico then requested the formation of a Chapter 20 panel on August 18, 2000.

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