

postal rate scheme was justified by Article 111:8(b) of GATT 1994. The Appellate Body Report, together with the panel report as modified by the Appellate Body Report, was adopted by the DSB on 30 July 1997.

7. European Communities - Regime for the Importation, Sale and Distribution of Bananas, complaints by Ecuador, Guatemala, Honduras, Mexico and the United States. The panel established on 8 May 1996, found that the EC's banana import regime, and the licensing procedures for the importation of bananas in this regime, are inconsistent with various provisions of the GATT, the Import Licensing Agreement and the GATS. Following an appeal from the EC, the Appellate Body upheld most of the panel's findings that the EC regime was inconsistent with the WTO rules. The Appellate Body Report, together with the panel report as modified by the Appellate Body Report, was adopted by the DSB on 25 September 1997.

Negotiated settlements: An interesting feature of the WTO dispute settlement practice is that about one quarter of the disputes have not progressed to the adjudicatory phase but were resolved by the parties themselves at the consultation stage. This outcome amply justifies the decision of the drafters that the interpolation of a negotiation Outcome amply justifies the decision of the drafters that the interpolation of a negotiation mechanism along with formal adjudicatory process would render the dispute settlement mechanism more effective. The instances of such negotiated settlements are listed below"

Complainant	Subject of complaint	Status
1. Singapore	Malaysia: Prohibition of imports of polyethylene	complaint withdrawn
2. United States	Korea: Measures concerning the shelf-life of products	Bilateral solution notified
3. Japan	US: imposition of import duties on autos from Japan	Bilateral solution notified
4. Canada	EC: Trade description of scallops	Solution notified
5. Canada	EC: duties on imports of cereals	Appears settled
6. Peru	EC: Trade description scallops	Solution notified

7. United States	EC: Duties on imports of grains	Panel request withdrawn
8. Chile	EC: Trade description of scallops	Solution notified
9. EC	Japan: Measures affecting purchase of telecom equipments	Appears settled
10. India	Poland: Import regime for automobiles	Bilateral solution notified
11. Canada	Korea: Measures concerning bottled water	Bilateral solution notified
12. United states	Japan: measures concerning protection of sound recordings	Bilateral solution notified
13. India	US: Measures affecting imports of women's wool coats	Measures removed
14. Argentina	Australia, Canada, } Hungary : Export subsidies of agricultural products	Solution notified
	New Zealand, } Thailand, US }	
15. United States	Pakistan: Patent protection for pharmaceutical and agricultural chemical products	Bilateral solution notified
16. United States	Portugal: Patent protection under Industrial Protection Act	Bilateral solution notified
17. EC	US: The Cuban Liberty and Democratic Solidarity Act	Panel suspended on notified
18. EC	US: Tariff increases on products from EC	Measures terminated
19. US	Turkey: Taxation of foreign film revenues	Bilateral solution notified
20. Mexico	US: Anti-dumping investigations on fresh and chilled tomatoes	Appears settled
21. US	Australia: Textile, clothing and footwear import credit scheme	Appears settled
22. EC	Japan: Procurement of a navigatioal satellite	Bilateral solution notified

Increased Participation by developing countries: At much variance with the GATT practice, a new legal development in the WTO dispute settlement system is its frequent use by developing countries. As of August 1997, the developing countries have filed 31 cases and have been the subject of 37 complaints. Among the AALCC Member States, Japan, India and Thailand have been the leading Complainants. The list of disputes wherein an AALCC Member State was involved whether as a complainant or as a subject of a Complaint is given below²⁰:

Participation of AALCC Member States in WTO dispute

Settlement Process

Complainant	Subject of the complaint
1. Singapore	Malaysia: prohibition of imports of polyethylene and polypropylene
2. United States	Korea: Measures concerning the testing and inspection of agricultural products
3. United States	Korea: Measures concerning the shelf-life of products
4. Japan	US: Imposition of import duties on autos from Japan
5. EC	Japan: Taxes on alcoholic beverages
6. Canada	Japan: taxes on alcoholic beverages
7. United States	Japan: Taxes on alcoholic beverages
8. Thailand	EC: Import duties on rice
9. India	Poland: import regime for automobiles
10. Canada	Korea: measures concerning bottled water
11. Philippines	Brazil: Measures affecting desiccated coconut
12. United States	Japan: Measures concerning protection of sound recordings
13. Hong Kong	Turkey: Restrictions on imports of textiles and clothing products
14. Sri Lanka	Brazil: Measures affecting desiccated coconut and coconut milk powder
15. India	US: Measures affecting imports of women's and girls' wool coats

16. India	US: Measures affecting imports of women's and girls' wool coats
17. India	Turkey: Restrictions on import of textiles and clothing products
18. Thailand and others	Hungary: Export subsidies of agricultural products
19. United States	Pakistan: Patent protection for pharmaceutical and agricultural chemical products
20. EC	Korea: Laws, regulations and practices in the telecommunication sector
21. United States	Korea: Measures concerning inspection of agricultural products
22. EC	Japan: Measures concerning sound recordings
23. US	Turkey: Taxation of foreign film revenues
24. US	Japan: Measures affecting consumer photographic film and paper
25. US	Japan: Measures affecting distribution services
26. Thailand	Turkey: Restrictions on imports of textiles and clothing products
27. United States	India: Patent protection for pharmaceutical and agricultural chemical products
28. Japan	Brazil: Certain automotive investment measures
29. EC	Indonesia: Certain measures affecting the automobile industry
30. Japan	Indonesia: Certain measures affecting the automobile industry
31. Malaysia, Thailand	US: Import prohibition of certain shrimp and shrimp products
India, Pakistan	
32. US	Indonesia: Certain measures affecting the automobile industry
33. Philippines	US: Import prohibition of certain shrimp and shrimp products
34. Japan	Indonesia: Certain automotive industry measures
35. EC	Japan: Measures affecting import of porks
36. EC	Japan: Procurement of a navigational satellite
37. US	Philippines: Measures affecting pork and poultry
38. EC	Korea: Taxes on alcoholic beverages

²⁰ WTO Focus August 1997.

- | | |
|-----------------|--|
| 39. US | Japan: Measures affecting agricultural products |
| 40. EC | India: Patent protection for pharmaceutical and agricultural chemical products |
| 41. US | Korea: Taxes on alcoholic beverages |
| 42. Korea | US: imposition of anti-dumping duties on imports of colour television receivers |
| 43. US | India: Quantitative restrictions on imports of agricultural, textile and industrial products |
| 44. Australia | India: Quantitative restrictions on imports of agricultural, textile and industrial products |
| 45. Canada | India: Quantitative restrictions on imports of agricultural, textile and industrial products |
| 46. New Zealand | India: Quantitative restrictions on imports of agricultural, textile and industrial products |
| 47. Switzerland | India: Quantitative restrictions on imports of agricultural, textile and industrial products |
| 48. EC | India: Quantitative restrictions on imports of agricultural, textile and industrial products |
| 49. Japan | US: Measures affecting government procurement |
| 50. EC | Korea: Definitive safeguard measure on imports of certain dairy products |
| 51. Korea | US: Anti-dumping duty on dynamic random access memory semiconductors originating from Korea |
-

Other Aspects:

Moreover, it is worth noting that the WTO Members are actively using a new feature of the TO procedures - the appellate review process. All the panel reports so far issued has been brought on appeal to the Appellate Body for a final ruling. The review of the panel's rulings by an Appellate Body fills the aspirations of a legalised and rule-oriented dispute settlement mechanism and estops the losing party from claiming that the dispute settlement process was unfair, erroneous or incomplete.

ANNEXURES

APPENDIX 1

AGREEMENTS COVERED BY THE UNDERSTANDING

- A) Agreement Establishing the Multilateral Trade Organization
- B) Annex 1A Agreements on trade in goods
Annex 1B General Agreement on Trade in Services
Annex 1C Agreement on Trade-Related Aspects of intellectual property Rights
Annex 2: Understanding on Rules and Procedures Governing the Settlement of Disputes
- C) Annex 4. Agreement on Trade in Civil Aircraft
Agreement on Government Procurement
International Dairy Arrangement
Arrangement Regarding Bovine Meat

The applicability of this Understanding to Annex 4 Agreements shall be subject to the adoption of a decision by the Signatories of each Agreement setting out the terms for the application of the Understanding to the individual agreement, including any special or additional rules or procedures for inclusion in Appendix 2, as notified to the Dispute Settlement Body.

APPENDIX 2

SPECIAL OR ADDITIONAL RULES AND PROCEDURES CONTAINED IN THE COVERED AGREEMENTS

Agreement	Rule and Procedures
Anti-Dumping	17.4 to 17.7
Technical Barriers to Trade	14.2 to 14.4, Annex 2.
Subsidies and Countervailing Measures	4.2 to 4.12, 6.6, 7.2 to 7.10, 8.5, footnote 33, 25.3 to 25.4, 28.6, Annex V.
Customs Valuation	19.3 to 19.5, Annex II.2(f), 3, 9, 21
Sanitary and Phytosanitary Regulations	36
Textiles	2.14, 2.21, 4.4, 5.2, 5.4, 5.6, 6.9, 6.10, 6.11, 8.1 to 8.12
General Agreement on Trade in Services	XXII:3, XXIII:3
Financial Services	4.1
Air Transport Services	4
Ministerial Decision on Services Disputes	1 to 5

The list of rules and procedures in this Appendix includes provisions where only a part of the provision may be relevant in this context.

Any special or additional rules or procedures in ANNEX 4 Agreements as determined by the competent bodies of each Agreement and as notified to the DSB.