

APPELLATE BODY

ANNUAL REPORT FOR 2005

JANUARY 2006

**The Appellate Body welcomes comments and inquiries
regarding this report at the
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<i>Argentina – Textiles and Apparel</i>	Appellate Body Report, <i>Argentina – Measures Affecting Imports of Footwear, Textiles, Apparel and Other Items</i> , WT/DS56/AB/R and Corr.1, adopted 22 April 1998, DSR 1998:III, 1003
<i>Australia – Salmon</i>	Appellate Body Report, <i>Australia – Measures Affecting Importation of Salmon</i> , WT/DS18/AB/R, adopted 6 November 1998, DSR 1998:VIII, 3327
<i>Brazil – Aircraft</i>	Appellate Body Report, <i>Brazil – Export Financing Programme for Aircraft</i> , WT/DS46/AB/R, adopted 20 August 1999, DSR 1999:III, 1161
<i>Brazil – Aircraft (Article 21.5 – Canada)</i>	Appellate Body Report, <i>Brazil – Export Financing Programme for Aircraft – Recourse by Canada to Article 21.5 of the DSU</i> , WT/DS46/AB/RW, adopted 4 August 2000, DSR 2000:VIII, 4067
<i>Brazil – Aircraft (Article 21.5 – Canada)</i>	Panel Report, <i>Brazil – Export Financing Programme for Aircraft – Recourse by Canada to Article 21.5 of the DSU</i> , WT/DS46/RW, adopted 4 August 2000, as modified by Appellate Body Report, WT/DS46/AB/RW, DSR 2000:IX, 4093
<i>Brazil – Desiccated Coconut</i>	Appellate Body Report, <i>Brazil – Measures Affecting Desiccated Coconut</i> , WT/DS22/AB/R, adopted 20 March 1997, DSR 1997:I, 167
<i>Canada – Aircraft</i>	Appellate Body Report, <i>Canada – Measures Affecting the Export of Civilian Aircraft</i> , WT/DS70/AB/R, adopted 20 August 1999, DSR 1999:III, 1377
<i>Canada – Aircraft (Article 21.5 – Brazil)</i>	Appellate Body Report, <i>Canada – Measures Affecting the Export of Civilian Aircraft – Recourse by Brazil to Article 21.5 of the DSU</i> , WT/DS70/AB/RW, adopted 4 August 2000, DSR 2000:IX, 4299
<i>Canada – Aircraft (Article 21.5 – Brazil)</i>	Panel Report, <i>Canada – Measures Affecting the Export of Civilian Aircraft – Recourse by Brazil to Article 21.5 of the DSU</i> , WT/DS70/RW, adopted 4 August 2000, as modified by Appellate Body Report, WT/DS70/AB/RW, DSR 2000:IX, 4315
<i>Canada – Autos</i>	Appellate Body Report, <i>Canada – Certain Measures Affecting the Automotive Industry</i> , WT/DS139/AB/R, WT/DS142/AB/R, adopted 19 June 2000, DSR 2000:VI, 2985
<i>Canada – Dairy</i>	Appellate Body Report, <i>Canada – Measures Affecting the Importation of Milk and the Exportation of Dairy Products</i> , WT/DS103/AB/R, WT/DS113/AB/R and Corr.1, adopted 27 October 1999, DSR 1999:V, 2057
<i>Canada – Dairy (Article 21.5 – New Zealand and US)</i>	Appellate Body Report, <i>Canada – Measures Affecting the Importation of Milk and the Exportation of Dairy Products – Recourse to Article 21.5 of the DSU by New Zealand and the United States</i> , WT/DS103/AB/RW, WT/DS113/AB/RW, adopted 18 December 2001, DSR 2001:XIII, 6829
<i>Canada – Dairy (Article 21.5 – New Zealand and US)</i>	Panel Report, <i>Canada – Measures Affecting the Importation of Milk and the Exportation of Dairy Products – Recourse to Article 21.5 of the DSU by New Zealand and the United States</i> , WT/DS103/RW, WT/DS113/RW, adopted 18 December 2001, as reversed by Appellate Body Report, WT/DS103/AB/RW, WT/DS113/AB/RW, DSR 2001:XIII, 6865
<i>Canada – Dairy (Article 21.5 – New Zealand and US II)</i>	Appellate Body Report, <i>Canada – Measures Affecting the Importation of Milk and the Exportation of Dairy Products – Second Recourse to Article 21.5 of the DSU by New Zealand and the United States</i> , WT/DS103/AB/RW2, WT/DS113/AB/RW2, adopted 17 January 2003, DSR 2003:I, 213

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<i>Canada – Dairy (Article 21.5 – New Zealand and US II)</i>	Panel Report, <i>Canada – Measures Affecting the Importation of Milk and the Exportation of Dairy Products – Second Recourse to Article 21.5 of the DSU by New Zealand and the United States</i> , WT/DS103/RW2, WT/DS113/RW2, adopted 17 January 2003, as modified by Appellate Body Report, WT/DS103/AB/RW2, WT/DS113/AB/RW2, DSR 2003:I, 255
<i>Canada – Patent Term</i>	Appellate Body Report, <i>Canada – Term of Patent Protection</i> , WT/DS170/AB/R, adopted 12 October 2000, DSR 2000:X, 5093
<i>Canada – Periodicals</i>	Appellate Body Report, <i>Canada – Certain Measures Concerning Periodicals</i> , WT/DS31/AB/R, adopted 30 July 1997, DSR 1997:I, 449
<i>Canada – Wheat Exports and Grain Imports</i>	Appellate Body Report, <i>Canada – Measures Relating to Exports of Wheat and Treatment of Imported Grain</i> , WT/DS276/AB/R, adopted 27 September 2004
<i>Chile – Alcoholic Beverages</i>	Appellate Body Report, <i>Chile – Taxes on Alcoholic Beverages</i> , WT/DS87/AB/R, WT/DS110/AB/R, adopted 12 January 2000, DSR 2000:I, 281
<i>Chile – Price Band System</i>	Appellate Body Report, <i>Chile – Price Band System and Safeguard Measures Relating to Certain Agricultural Products</i> , WT/DS207/AB/R, adopted 23 October 2002, DSR 2002:VIII, 3045
<i>Dominican Republic – Import and Sale of Cigarettes</i>	Appellate Body Report, <i>Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes</i> , WT/DS302/AB/R, adopted 19 May 2005
<i>Dominican Republic – Import and Sale of Cigarettes</i>	Panel Report, <i>Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes</i> , WT/DS302/R, adopted 19 May 2005, as modified by Appellate Body Report, WT/DS302/AB/R
<i>EC – The ACP-EC Partnership Agreement</i>	Award of the Arbitrator, <i>European Communities – The ACP-EC Partnership Agreement – Recourse to Arbitration Pursuant to the Decision of 14 November 2001</i> , WT/L/616, 1 August 2005
<i>EC – The ACP-EC Partnership Agreement II</i>	Award of the Arbitrator, <i>European Communities – The ACP-EC Partnership Agreement – Second Recourse to Arbitration Pursuant to the Decision of 14 November 2001</i> , WT/L/625, 27 October 2005
<i>EC – Asbestos</i>	Appellate Body Report, <i>European Communities – Measures Affecting Asbestos and Asbestos-Containing Products</i> , WT/DS135/AB/R, adopted 5 April 2001, DSR 2001:VII, 3243
<i>EC – Bananas III</i>	Appellate Body Report, <i>European Communities – Regime for the Importation, Sale and Distribution of Bananas</i> , WT/DS27/AB/R, adopted 25 September 1997, DSR 1997:II, 591
<i>EC – Bed Linen</i>	Appellate Body Report, <i>European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India</i> , WT/DS141/AB/R, adopted 12 March 2001, DSR 2001:V, 2049
<i>EC – Bed Linen (Article 21.5 – India)</i>	Appellate Body Report, <i>European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India – Recourse to Article 21.5 of the DSU by India</i> , WT/DS141/AB/RW, adopted 24 April 2003, DSR 2003:III, 965
<i>EC – Bed Linen (Article 21.5 – India)</i>	Panel Report, <i>European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India – Recourse to Article 21.5 of the DSU by India</i> , WT/DS141/RW, adopted 24 April 2003, as modified by Appellate Body Report, WT/DS141/AB/RW, DSR 2003:IV, 1269
<i>EC – Chicken Cuts</i>	Appellate Body Report, <i>European Communities – Customs Classification of Frozen Boneless Chicken Cuts</i> , WT/DS269/AB/R, WT/DS286/AB/R, adopted 27 September 2005

Short Title	Full Case Title and Citation
<i>EC – Chicken Cuts (Brazil)</i>	Panel Report, <i>European Communities – Customs Classification of Frozen Boneless Chicken Cuts, Complaint by Brazil</i> , WT/DS269/R, adopted 27 September 2005, as modified by Appellate Body Report, WT/DS269/AB/R, WT/DS286/AB/R
<i>EC – Chicken Cuts (Thailand)</i>	Panel Report, <i>European Communities – Customs Classification of Frozen Boneless Chicken Cuts, Complaint by Thailand</i> , WT/DS286/R, adopted 27 September 2005, as modified by Appellate Body Report, WT/DS269/AB/R, WT/DS286/AB/R
<i>EC – Commercial Vessels</i>	Panel Report, <i>European Communities – Measures Affecting Trade in Commercial Vessels</i> , WT/DS301/R, adopted 20 June 2005
<i>EC – Computer Equipment</i>	Appellate Body Report, <i>European Communities – Customs Classification of Certain Computer Equipment</i> , WT/DS62/AB/R, WT/DS67/AB/R, WT/DS68/AB/R, adopted 22 June 1998, DSR 1998:V, 1851
<i>EC – Countervailing Measures on DRAM Chips</i>	Panel Report, <i>European Communities – Countervailing Measures on Dynamic Random Access Memory Chips from Korea</i> , WT/DS299/R, adopted 3 August 2005
<i>EC – Export Subsidies on Sugar</i>	Appellate Body Report, <i>European Communities – Export Subsidies on Sugar</i> , WT/DS265/AB/R, WT/DS266/AB/R, WT/DS283/AB/R, adopted 19 May 2005
<i>EC – Export Subsidies on Sugar (Australia)</i>	Panel Report, <i>European Communities – Export Subsidies on Sugar, Complaint by Australia</i> , WT/DS265/R, adopted 19 May 2005, as modified by Appellate Body Report, WT/DS265/AB/R, WT/DS266/AB/R, WT/DS283/AB/R
<i>EC – Export Subsidies on Sugar (Brazil)</i>	Panel Report, <i>European Communities – Export Subsidies on Sugar, Complaint by Brazil</i> , WT/DS266/R, adopted 19 May 2005, as modified by Appellate Body Report, WT/DS265/AB/R, WT/DS266/AB/R, WT/DS283/AB/R
<i>EC – Export Subsidies on Sugar (Thailand)</i>	Panel Report, <i>European Communities – Export Subsidies on Sugar, Complaint by Thailand</i> , WT/DS283/R, adopted 19 May 2005, as modified by Appellate Body Report, WT/DS265/AB/R, WT/DS266/AB/R, WT/DS283/AB/R
<i>EC – Export Subsidies on Sugar</i>	Award of the Arbitrator, <i>European Communities – Export Subsidies on Sugar – Arbitration under Article 21.3(c) of the DSU</i> , WT/DS265/33, WT/DS266/33, WT/DS283/14, 28 October 2005
<i>EC – Hormones</i>	Appellate Body Report, <i>EC Measures Concerning Meat and Meat Products (Hormones)</i> , WT/DS26/AB/R, WT/DS48/AB/R, adopted 13 February 1998, DSR 1998:I, 135
<i>EC – Poultry</i>	Appellate Body Report, <i>European Communities – Measures Affecting the Importation of Certain Poultry Products</i> , WT/DS69/AB/R, adopted 23 July 1998, DSR 1998:V, 2031
<i>EC – Sardines</i>	Appellate Body Report, <i>European Communities – Trade Description of Sardines</i> , WT/DS231/AB/R, adopted 23 October 2002, DSR 2002:VIII, 3359
<i>EC – Tariff Preferences</i>	Appellate Body Report, <i>European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries</i> , WT/DS246/AB/R, adopted 20 April 2004
<i>EC – Trademarks and Geographical Indications (Australia)</i>	Panel Report, <i>European Communities – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs, Complaint by Australia</i> , WT/DS290/R, adopted 20 April 2005
<i>EC – Trademarks and Geographical Indications (US)</i>	Panel Report, <i>European Communities – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs, Complaint by the United States</i> , WT/DS174/R, adopted 20 April 2005

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<i>EC – Tube or Pipe Fittings</i>	Appellate Body Report, <i>European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil</i> , WT/DS219/AB/R, adopted 18 August 2003, DSR 2003:VI, 2613
<i>Guatemala – Cement I</i>	Appellate Body Report, <i>Guatemala – Anti-Dumping Investigation Regarding Portland Cement from Mexico</i> , WT/DS60/AB/R, adopted 25 November 1998, DSR 1998:IX, 3767
<i>India – Autos</i>	Appellate Body Report, <i>India – Measures Affecting the Automotive Sector</i> , WT/DS146/AB/R, WT/DS175/AB/R, adopted 5 April 2002, DSR 2002:V, 1821
<i>India – Patents (US)</i>	Appellate Body Report, <i>India – Patent Protection for Pharmaceutical and Agricultural Chemical Products</i> , WT/DS50/AB/R, adopted 16 January 1998, DSR 1998:I, 9
<i>India – Quantitative Restrictions</i>	Appellate Body Report, <i>India – Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products</i> , WT/DS90/AB/R, adopted 22 September 1999, DSR 1999:IV, 1763
<i>Japan – Agricultural Products II</i>	Appellate Body Report, <i>Japan – Measures Affecting Agricultural Products</i> , WT/DS76/AB/R, adopted 19 March 1999, DSR 1999:I, 277
<i>Japan – Alcoholic Beverages II</i>	Appellate Body Report, <i>Japan – Taxes on Alcoholic Beverages</i> , WT/DS8/AB/R, WT/DS10/AB/R, WT/DS11/AB/R, adopted 1 November 1996, DSR 1996:I, 97
<i>Japan – Apples</i>	Appellate Body Report, <i>Japan – Measures Affecting the Importation of Apples</i> , WT/DS245/AB/R, adopted 10 December 2003
<i>Japan – Apples (Article 21.5 – US)</i>	Panel Report, <i>Japan – Measures Affecting the Importation of Apples – Recourse to Article 21.5 of the DSU by the United States</i> , WT/DS245/RW, adopted 20 July 2005
<i>Korea – Alcoholic Beverages</i>	Appellate Body Report, <i>Korea – Taxes on Alcoholic Beverages</i> , WT/DS75/AB/R, WT/DS84/AB/R, adopted 17 February 1999, DSR 1999:I, 3
<i>Korea – Certain Paper</i>	Panel Report, <i>Korea – Anti-Dumping Duties on Imports of Certain Paper from Indonesia</i> , WT/DS312/R, adopted 28 November 2005
<i>Korea – Commercial Vessels</i>	Panel Report, <i>Korea – Measures Affecting Trade in Commercial Vessels</i> , WT/DS273/R, adopted 11 April 2005
<i>Korea – Dairy</i>	Appellate Body Report, <i>Korea – Definitive Safeguard Measure on Imports of Certain Dairy Products</i> , WT/DS98/AB/R, adopted 12 January 2000, DSR 2000:I, 3
<i>Korea – Various Measures on Beef</i>	Appellate Body Report, <i>Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef</i> , WT/DS161/AB/R, WT/DS169/AB/R, adopted 10 January 2001, DSR 2001:I, 5
<i>Mexico – Anti-Dumping Measures on Rice</i>	Appellate Body Report, <i>Mexico – Definitive Anti-Dumping Measures on Beef and Rice, Complaint with Respect to Rice</i> , WT/DS295/AB/R, adopted 20 December 2005
<i>Mexico – Anti-Dumping Measures on Rice</i>	Panel Report, <i>Mexico – Definitive Anti-Dumping Measures on Beef and Rice, Complaint with Respect to Rice</i> , WT/DS295/R, adopted 20 December 2005, as modified by Appellate Body Report, WT/DS295/AB/R

Short Title	Full Case Title and Citation
<i>Mexico – Corn Syrup (Article 21.5 – US)</i>	Appellate Body Report, <i>Mexico – Anti-Dumping Investigation of High Fructose Corn Syrup (HFCS) from the United States – Recourse to Article 21.5 of the DSU by the United States</i> , WT/DS132/AB/RW, adopted 21 November 2001, DSR 2001:XIII, 6675
<i>Mexico – Corn Syrup (Article 21.5 – US)</i>	Panel Report, <i>Mexico – Anti-Dumping Investigation of High Fructose Corn Syrup (HFCS) from the United States – Recourse to Article 21.5 of the DSU by the United States</i> , WT/DS132/RW, adopted 21 November 2001, as upheld by Appellate Body Report, WT/DS132/AB/RW, DSR 2001:XIII, 6717
<i>Mexico – Taxes on Soft Drinks</i>	Panel Report, <i>Mexico – Tax Measures on Soft Drinks and Other Beverages</i> , WT/DS308/R, circulated 7 October 2005
<i>Thailand – H-Beams</i>	Appellate Body Report, <i>Thailand – Anti-Dumping Duties on Angles, Shapes and Sections of Iron or Non-Alloy Steel and H-Beams from Poland</i> , WT/DS122/AB/R, adopted 5 April 2001, DSR 2001:VII, 2701
<i>Turkey – Textiles</i>	Appellate Body Report, <i>Turkey – Restrictions on Imports of Textile and Clothing Products</i> , WT/DS34/AB/R, adopted 19 November 1999, DSR 1999:VI, 2345
<i>US – 1916 Act</i>	Appellate Body Report, <i>United States – Anti-Dumping Act of 1916</i> , WT/DS136/AB/R, WT/DS162/AB/R, adopted 26 September 2000, DSR 2000:X, 4793
<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i>	Appellate Body Report, <i>United States – Anti-Dumping Measures on Oil Country Tubular Goods (OCTG) from Mexico</i> , WT/DS282/R, adopted 28 November 2005
<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i>	Panel Report, <i>United States – Anti-Dumping Measures on Oil Country Tubular Goods (OCTG) from Mexico</i> , WT/DS282/R, adopted 28 November 2005, as modified by Appellate Body Report, WT/DS282/AB/R
<i>US – Carbon Steel</i>	Appellate Body Report, <i>United States – Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany</i> , WT/DS213/AB/R and Corr.1, adopted 19 December 2002, DSR 2002:IX, 3779
<i>US – Certain EC Products</i>	Appellate Body Report, <i>United States – Import Measures on Certain Products from the European Communities</i> , WT/DS165/AB/R, adopted 10 January 2001, DSR 2001:I, 373
<i>US – Corrosion-Resistant Steel Sunset Review</i>	Appellate Body Report, <i>United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan</i> , WT/DS244/AB/R, adopted 9 January 2004
<i>US – Cotton Yarn</i>	Appellate Body Report, <i>United States – Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan</i> , WT/DS192/AB/R, adopted 5 November 2001, DSR 2001:XII, 6027
<i>US – Countervailing Duty Investigation on DRAMS</i>	Appellate Body Report, <i>United States – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMS) from Korea</i> , WT/DS296/AB/R, adopted 20 July 2005
<i>US – Countervailing Duty Investigation on DRAMS</i>	Panel Report, <i>United States – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMS) from Korea</i> , WT/DS296/R, adopted 20 July 2005, as modified by Appellate Body Report, WT/DS296/AB/R
<i>US – Countervailing Measures on Certain EC Products</i>	Appellate Body Report, <i>United States – Countervailing Measures Concerning Certain Products from the European Communities</i> , WT/DS212/AB/R, adopted 8 January 2003, DSR 2003:I, 5
<i>US – Countervailing Measures on Certain EC Products (Article 21.5 – EC)</i>	Panel Report, <i>United States – Countervailing Measures Concerning Certain Products from the European Communities – Recourse to Article 21.5 of the DSU by the European Communities</i> , WT/DS212/RW, adopted 27 September 2005

Short Title	Full Case Title and Citation
<i>US – FSC</i>	Appellate Body Report, <i>United States – Tax Treatment for "Foreign Sales Corporations"</i> , WT/DS108/AB/R, adopted 20 March 2000, DSR 2000:III, 1619
<i>US – FSC (Article 21.5 – EC)</i>	Appellate Body Report, <i>United States – Tax Treatment for "Foreign Sales Corporations" – Recourse to Article 21.5 of the DSU by the European Communities</i> , WT/DS108/AB/RW, adopted 29 January 2002, DSR 2002:I, 55
<i>US – FSC (Article 21.5 – EC)</i>	Panel Report, <i>United States – Tax Treatment for "Foreign Sales Corporations" – Recourse to Article 21.5 of the DSU by the European Communities</i> , WT/DS108/RW, adopted 29 January 2002, as modified by Appellate Body Report, WT/DS108/AB/RW, DSR 2002:I, 119
<i>US – FSC (Article 21.5 – EC II)</i>	Panel Report, <i>United States – Tax Treatment for "Foreign Sales Corporations" – Second Recourse to Article 21.5 of the DSU by the European Communities</i> , WT/DS108/RW2, circulated 30 September 2005
<i>US – Gambling</i>	Appellate Body Report, <i>United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services</i> , WT/DS285/AB/R, adopted 20 April 2005
<i>US – Gambling</i>	Panel Report, <i>United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services</i> , WT/DS285/R, adopted 20 April 2005, as modified by Appellate Body Report, WT/DS285/AB/R
<i>US – Gambling</i>	Award of the Arbitrator, <i>United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services – Arbitration under Article 21.3(c) of the DSU</i> , WT/DS285/13, 19 August 2005
<i>US – Gasoline</i>	Appellate Body Report, <i>United States – Standards for Reformulated and Conventional Gasoline</i> , WT/DS2/AB/R, adopted 20 May 1996, DSR 1996:I, 3
<i>US – Hot-Rolled Steel</i>	Appellate Body Report, <i>United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan</i> , WT/DS184/AB/R, adopted 23 August 2001, DSR 2001:X, 4697
<i>US – Lamb</i>	Appellate Body Report, <i>United States – Safeguard Measures on Imports of Fresh, Chilled or Frozen Lamb Meat from New Zealand and Australia</i> , WT/DS177/AB/R, WT/DS178/AB/R, adopted 16 May 2001, DSR 2001:IX, 4051
<i>US – Lead and Bismuth II</i>	Appellate Body Report, <i>United States – Imposition of Countervailing Duties on Certain Hot-Rolled Lead and Bismuth Carbon Steel Products Originating in the United Kingdom</i> , WT/DS138/AB/R, adopted 7 June 2000, DSR 2000:V, 2595
<i>US – Line Pipe</i>	Appellate Body Report, <i>United States – Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea</i> , WT/DS202/AB/R, adopted 8 March 2002, DSR 2002:IV, 1403
<i>US – Offset Act (Byrd Amendment)</i>	Appellate Body Report, <i>United States – Continued Dumping and Subsidy Offset Act of 2000</i> , WT/DS217/AB/R, WT/DS234/AB/R, adopted 27 January 2003, DSR 2003:I, 375
<i>US – Oil Country Tubular Goods Sunset Reviews</i>	Appellate Body Report, <i>United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina</i> , WT/DS268/AB/R, adopted 17 December 2004
<i>US – Oil Country Tubular Goods Sunset Reviews</i>	Award of the Arbitrator, <i>United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina – Arbitration under Article 21.3(c) of the DSU</i> , WT/DS268/12, 7 June 2005
<i>US – Section 211 Appropriations Act</i>	Appellate Body Report, <i>United States – Section 211 Omnibus Appropriations Act of 1998</i> , WT/DS176/AB/R, adopted 1 February 2002, DSR 2002:II, 589

Short Title	Full Case Title and Citation
<i>US – Shrimp</i>	Appellate Body Report, <i>United States – Import Prohibition of Certain Shrimp and Shrimp Products</i> , WT/DS58/AB/R, adopted 6 November 1998, DSR 1998:VII, 2755
<i>US – Shrimp (Article 21.5 – Malaysia)</i>	Appellate Body Report, <i>United States – Import Prohibition of Certain Shrimp and Shrimp Products – Recourse to Article 21.5 of the DSU by Malaysia</i> , WT/DS58/AB/RW, adopted 21 November 2001, DSR 2001:XIII, 6481
<i>US – Shrimp (Article 21.5 – Malaysia)</i>	Panel Report, <i>United States – Import Prohibition of Certain Shrimp and Shrimp Products – Recourse to Article 21.5 of the DSU by Malaysia</i> , WT/DS58/RW, adopted 21 November 2001, as upheld by Appellate Body Report, WT/DS58/AB/RW, DSR 2001:XIII, 6529
<i>US – Softwood Lumber IV</i>	Appellate Body Report, <i>United States – Final Countervailing Duty Determination with Respect to Certain Softwood Lumber from Canada</i> , WT/DS257/AB/R, adopted 17 February 2004
<i>US – Softwood Lumber IV (Article 21.5 – Canada)</i>	Appellate Body Report, <i>United States – Final Countervailing Duty Determination with Respect to Certain Softwood Lumber from Canada – Recourse by Canada to Article 21.5 of the DSU</i> , WT/DS257/RW, adopted 20 December 2005
<i>US – Softwood Lumber IV (Article 21.5 – Canada)</i>	Panel Report, <i>United States – Final Countervailing Duty Determination with Respect to Certain Softwood Lumber from Canada – Recourse by Canada to Article 21.5</i> , WT/DS257/RW, adopted 20 December 2005, as upheld by Appellate Body Report, WT/DS257/AB/RW
<i>US – Softwood Lumber V</i>	Appellate Body Report, <i>United States – Final Dumping Determination on Softwood Lumber from Canada</i> , WT/DS264/AB/R, adopted 31 August 2004
<i>US – Softwood Lumber VI (Article 21.5 – Canada)</i>	Panel Report, <i>United States – Investigation of the International Trade Commission in Softwood Lumber from Canada, Recourse to Article 21.5 of the DSU by Canada</i> , WT/DS277/RW, 15 November 2005
<i>US – Steel Safeguards</i>	Appellate Body Report, <i>United States – Definitive Safeguard Measures on Imports of Certain Steel Products</i> , WT/DS248/AB/R, WT/DS249/AB/R, WT/DS251/AB/R, WT/DS252/AB/R, WT/DS253/AB/R, WT/DS254/AB/R, WT/DS258/AB/R, WT/DS259/AB/R, adopted 10 December 2003, DSR 2003:VII, 3117
<i>US – Underwear</i>	Appellate Body Report, <i>United States – Restrictions on Imports of Cotton and Man-made Fibre Underwear</i> , WT/DS24/AB/R, adopted 25 February 1997, DSR 1997:I, 11
<i>US – Upland Cotton</i>	Appellate Body Report, <i>United States – Subsidies on Upland Cotton</i> , WT/DS267/AB/R, adopted 21 March 2005
<i>US – Wheat Gluten</i>	Appellate Body Report, <i>United States – Definitive Safeguard Measures on Imports of Wheat Gluten from the European Communities</i> , WT/DS166/AB/R, adopted 19 January 2001, DSR 2001:II, 717
<i>US – Wool Shirts and Blouses</i>	Appellate Body Report, <i>United States – Measure Affecting Imports of Woven Wool Shirts and Blouses from India</i> , WT/DS33/AB/R and Corr.1, adopted 23 May 1997, DSR 1997:I, 323
<i>US – Zeroing (EC)</i>	Panel Report, <i>United States – Laws, Regulations and Methodology for Calculating Dumping Margins ("Zeroing")</i> , WT/DS294/R, 31 October 2005

ABBREVIATIONS USED IN THIS REPORT

Abbreviation	Description
2005 TA Plan	WTO Technical Assistance and Training Plan 2005
ACP countries	African–Caribbean–Pacific countries
<i>Anti-Dumping Agreement</i>	<i>Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994</i>
ATC	<i>Agreement on Textiles and Clothing</i>
DSB	Dispute Settlement Body
DSU	<i>Understanding on Rules and Procedures Governing the Settlement of Disputes</i>
GATS	<i>General Agreement on Trade in Services</i>
GATT 1994	<i>General Agreement on Tariffs and Trade 1994</i>
Import Licensing	<i>Agreement on Import Licensing Procedures</i>
LSDD	WTO Language Services and Documentation Division
MFN	most-favoured nation
Repertory	<i>WTO Appellate Body Repertory of Reports and Awards 1995–2004</i>
<i>SCM Agreement</i>	<i>Agreement on Subsidies and Countervailing Measures</i>
SPS	<i>Agreement on the Application of Sanitary and Phytosanitary Measures</i>
TBT	<i>Agreement on Technical Barriers to Trade</i>
TRIMs	<i>Agreement on Trade-Related Investment Measures</i>
TRIPS	<i>Agreement on Trade-Related Aspects of Intellectual Property Rights</i>
USDOC	United States Department of Commerce
<i>Working Procedures</i>	<i>Working Procedures for Appellate Review, WT/AB/WP/5, 4 January 2005</i>
WTO	World Trade Organization

WORLD TRADE ORGANIZATION
APPELLATE BODY

ANNUAL REPORT FOR 2005

The following report provides a summary of the activities undertaken in 2005 by the Appellate Body of the World Trade Organization (the "WTO") and its Secretariat.

I. Composition of the Appellate Body

The Appellate Body is composed of seven Members appointed to four-year terms by the WTO Dispute Settlement Body (the "DSB"). Table 1 shows the current composition of the Appellate Body and the Members' respective terms of office.

TABLE 1: COMPOSITION OF THE APPELLATE BODY IN 2005

Name	Nationality	Term(s) of office
Georges Michel Abi-Saab	Egypt	2000-2004 2004-2008
Luiz Olavo Baptista	Brazil	2001-2005 2005-2009
Arumugamangalam Venkatachalam Ganesan (current Chairman)	India	2000-2004 2004-2008
Merit E. Janow	United States	2003-2007
John Lockhart	Australia	2001-2005 2005-2009
Giorgio Sacerdoti	Italy	2001-2005 2005-2009
Yasuhei Taniguchi	Japan	2000-2003 2003-2007

On 12 December 2005, Messrs. Luiz Olavo Baptista, John Lockhart, and Giorgio Sacerdoti each commenced a new term of office, having been appointed on 27 September 2005 by the DSB to a second four-year term that will expire on 11 December 2009.¹ The Appellate Body regrets that Mr. John Lockhart untimely passed away in Sydney, Australia, on 13 January 2006.

Mr. Yasuhei Taniguchi served as Chairman of the Appellate Body from 17 December 2004 to 16 December 2005.² On 19 December 2005, Appellate Body Members elected Mr. A.V. Ganesan, pursuant to Rule 5(1) of the *Working Procedures for Appellate Review* (the "*Working Procedures*"), to serve as Chairman of the Appellate Body from 17 December 2005 to 16 December 2006.³

A list of former Appellate Body Members and chairpersons is provided in Annex 1.

¹WT/DSB/M/198, paras. 85-88.

²WT/DSB/38.

³WT/DSB/40.

The Appellate Body receives legal and administrative support from the Appellate Body Secretariat, in accordance with Article 17.7 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU"). The Secretariat comprises a Director and a team of ten lawyers, one administrative assistant, and three support staff. Ms. Valerie Hughes was Director of the Appellate Body Secretariat from 29 August 2001 until her resignation effective 31 December 2005. Mr. Werner Zdouc was appointed Director commencing on 1 January 2006.

II. Appeals Filed

Ten appeals were filed during 2005. Under Rule 20(1) of the *Working Procedures*, an appeal is commenced by giving notice in writing to the DSB and filing a Notice of Appeal with the Appellate Body Secretariat. Table 2 provides information on the Panel Reports appealed in 2005.

TABLE 2: NOTICES OF APPEAL FILED IN 2005

Panel Reports appealed	Notice of Appeal document number	Date of Notice of Appeal	Appellant ⁴	Other Appellant ⁵
<i>US – Gambling</i>	WT/DS285/6	7 January 2005	United States	Antigua & Barbuda
<i>EC – Export Subsidies on Sugar (Australia; Brazil; Thailand)</i>	WT/DS265/25 WT/DS266/25 WT/DS283/6	13 January 2005	European Communities	Australia Brazil Thailand
<i>Dominican Republic – Import and Sale of Cigarettes</i>	WT/DS302/8	24 January 2005	Dominican Republic	Honduras
<i>US – Countervailing Duty Investigation on DRAMS</i>	WT/DS296/5	29 March 2005	United States	Korea
<i>EC – Chicken Cuts (Brazil; Thailand)</i>	WT/DS269/6 WT/DS286/8	13 June 2005	European Communities	Brazil Thailand
<i>Mexico – Anti-Dumping Measures on Rice</i>	WT/DS295/6	20 July 2005	Mexico	–
<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i>	WT/DS282/6	4 August 2005	Mexico	United States
<i>US – Softwood Lumber IV (Article 21.5 – Canada)</i>	WT/DS257/22	6 September 2005	United States	Canada
<i>US – FSC (Article 21.5 – EC II)</i>	WT/DS108/32	14 November 2005	United States	European Communities
<i>Mexico – Taxes on Soft Drinks</i>	WT/DS308/10	6 December 2005	Mexico	–

Information on the number of appeals filed each year since 1995 is contained in Annex 2.

⁴Pursuant to Rule 20 of the *Working Procedures*.

⁵Pursuant to Rule 23(1) of the *Working Procedures*.

Under Article 21.5 of the DSU, a panel may be established to hear a "disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings" of the DSB upon the adoption of a previous Panel or Appellate Body Report. Four Panels established pursuant to Article 21.5 circulated a Report in 2005, two of which were appealed.⁶

Twenty-two Panel Reports were circulated in 2005. The deadlines for adoption for two of these Panel Reports do not expire until 2006.⁷ Of the other 20 Panel Reports issued in 2005, 12 were appealed⁸—that is, 60 per cent. Table 3 lists the Panel Reports that were adopted by the DSB during 2005 without an appeal having been filed.

TABLE 3: PANEL REPORTS ADOPTED IN 2005 WITHOUT APPEAL

Case	Panel Report document number	Date Panel Report circulated	Date DSB adopted Panel Report
<i>Korea – Commercial Vessels</i>	WT/DS273/R	7 March 2005	11 April 2005
<i>EC – Trademarks and Geographical Indications</i>	WT/DS290/R (Australia) WT/DS174/R (US)	15 March 2005	20 April 2005
<i>EC – Commercial Vessels</i>	WT/DS301/R	22 April 2005	20 June 2005
<i>EC – Countervailing Measures on DRAM Chips</i>	WT/DS299/R	17 June 2005	3 August 2005
<i>Japan – Apples (Article 21.5 – US)</i>	WT/DS245/RW	15 July 2005	20 July 2005
<i>US – Countervailing Measures on Certain EC Products (Article 21.5 – EC)</i>	WT/DS212/RW	17 August 2005	27 September 2005
<i>Korea – Certain Paper</i>	WT/DS312/R	28 October 2005	28 November 2005

Annex 3 summarizes the percentage of Panel Reports adopted from 1996 through 2005 that were appealed. The overall average of adopted Panel Reports that were appealed is 67 per cent.

III. Appellate Body Reports

The Appellate Body circulated nine Reports during 2005. One of the Reports related to a Notice of Appeal filed in 2004.⁹ The other eight Reports related to Notices of Appeal filed during 2005. At the end of 2005, the Appellate Body had circulated a total of 73 Reports.

⁶*US – Softwood Lumber IV (Article 21.5 – Canada); US – FSC (Article 21.5 – EC II).*

⁷The Panel Report in *US – Softwood Lumber VI (Article 21.5 – Canada)* was circulated to WTO Members on 15 November 2005 and, therefore, the deadline for adoption will expire on 13 January 2006. The Panel Report in *US – Zeroing (EC)* was circulated to WTO Members on 31 October 2005. However, on 6 December 2005, the DSB agreed, upon a request by the European Communities and the United States, to extend the deadline for adoption of the Report to no later than 31 January 2006, unless either party appeals the Report prior to that date.

⁸The number of Panel Reports appealed may differ from the number of Appellate Body Reports because some Appellate Body Reports address more than one Panel Report (for example, in *EC – Export Subsidies on Sugar*, and *EC – Chicken Cuts*).

⁹The Notice of Appeal in *US – Upland Cotton* was filed on 18 October 2004.

TABLE 4: APPELLATE BODY REPORTS CIRCULATED IN 2005

Case	Appellate Body Report document number	Date Appellate Body Report circulated	Date DSB adopted Appellate Body Report
<i>US – Upland Cotton</i>	WT/DS267/AB/R	3 March 2005	21 March 2005
<i>US – Gambling</i>	WT/DS285/AB/R	7 April 2005	20 April 2005
<i>Dominican Republic – Import and Sale of Cigarettes</i>	WT/DS302/AB/R	25 April 2005	19 May 2005
<i>EC – Export Subsidies on Sugar</i>	WT/DS265/AB/R WT/DS266/AB/R WT/DS283/AB/R	28 April 2005	19 May 2005
<i>US – Countervailing Duty Investigation on DRAMS</i>	WT/DS296/AB/R	27 June 2005	20 July 2005
<i>EC – Chicken Cuts</i>	WT/DS269/AB/R WT/DS286/AB/R	12 September 2005	27 September 2005
<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i>	WT/DS282/AB/R	2 November 2005	28 November 2005
<i>Mexico – Anti-Dumping Measures on Rice</i>	WT/DS295/AB/R	29 November 2005	20 December 2005
<i>US – Softwood Lumber IV (Article 21.5 – Canada)</i>	WT/DS257/AB/RW	5 December 2005	20 December 2005

IV. Participants and Third Participants

Table 5 lists the WTO Members that participated in appeals in which an Appellate Body Report was circulated during 2005. Table 5 distinguishes between a Member that filed a Notice of Appeal pursuant to Rule 20 of the *Working Procedures* and a Member that filed an appeal pursuant to Rule 23(1) of the *Working Procedures* (commonly known as the "other appellant"). Rule 23(1) provides that "a party to the dispute other than the original appellant may join in that appeal or appeal on the basis of other alleged errors in the issues of law covered in the panel report and legal interpretations developed by the panel". Under the *Working Procedures*, parties wishing to appeal pursuant to Rule 23(1) are required to file a Notice of Other Appeal within 12 days after the filing of the Notice of Appeal.

Table 5 also specifies whether other Members participated in appeals as third participants under paragraph (1), (2), or (4) of Rule 24 of the *Working Procedures*. Under Rule 24(1), a WTO Member that was a third party to the panel proceedings may file a written submission as a third participant within 25 days of the filing of the Notice of Appeal. Pursuant to Rule 24(2), a Member that was a third party to the panel proceedings that has not filed a written submission may, within 25 days of the filing of the Notice of Appeal, notify its intention to appear at the oral hearing and whether it intends to make an oral statement at the hearing. Rule 24(4) provides that a Member that was party to the panel proceedings and that has neither filed a written submission in accordance with Rule 24(1) nor given notice in accordance with Rule 24(2) may notify its intention to appear at the oral hearing and request to make an oral statement.

TABLE 5: PARTICIPANTS AND THIRD PARTICIPANTS IN APPEALS – 2005

Case	Appellant ¹⁰	Other Appellant ¹¹	Appellee ¹²	Third Participant		
				Rule 24(1)	Rule 24(2)	Rule 24(4)
<i>US – Upland Cotton</i>	United States	Brazil	Brazil United States	Argentina Australia Benin Canada Chad China European Communities New Zealand	India	Pakistan Paraguay Chinese Taipei Venezuela
<i>US – Gambling</i>	United States	Antigua & Barbuda	Antigua & Barbuda United States	European Communities Japan Chinese Taipei	Mexico Canada	
<i>Dominican Republic – Import and Sale of Cigarettes</i>	Dominican Republic	Honduras	Dominican Republic Honduras	China European Communities United States	Guatemala	El Salvador
<i>EC – Export Subsidies on Sugar</i>	European Communities	Australia Brazil Thailand	Australia Brazil European Communities Thailand	Barbados Belize Canada China Côte d'Ivoire Fiji Guyana Jamaica Kenya Madagascar Malawi Mauritius New Zealand St. Kitts & Nevis Swaziland Tanzania Trinidad & Tobago United States	Colombia Cuba India Paraguay	
<i>US – Countervailing Duty Investigation on DRAMS</i>	United States	Korea	Korea United States	China European Communities Japan Chinese Taipei		

¹⁰Pursuant to Rule 20 of the *Working Procedures*.

¹¹Pursuant to Rule 23(1) of the *Working Procedures*.

¹²Pursuant to Rule 22 or Rule 23(3) of the *Working Procedures*.

Case	Appellant ¹⁰	Other Appellant ¹¹	Appellee ¹²	Third Participant		
				Rule 24(1)	Rule 24(2)	Rule 24(4)
<i>EC – Chicken Cuts</i>	European Communities	Brazil Thailand	Brazil European Communities Thailand	China United States		
<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i>	Mexico	United States	Mexico United States	Argentina China European Communities Japan	Canada Chinese Taipei	
<i>Mexico – Anti-Dumping Measures on Rice</i>	Mexico		United States	China European Communities		
<i>US – Softwood Lumber IV (Article 21.5 – Canada)</i>	United States	Canada		China European Communities		

A total of 42 WTO Members appeared at least once as appellant, other appellant, appellee, or third participant in appeals in which an Appellate Body Report was circulated during 2005.¹³ Of these 42 WTO Members, 6 were developed country Members and 36 were developing country Members.

Of the 99 total appearances by WTO Members before the Appellate Body during 2005, 37 were by developed country Members and 62 by developing country Members. Developed country Members made 6 appearances as appellants, 3 as other appellants, 8 as appellees, and 20 as third participants. Developing country Members made 3 appearances as appellants, 8 as other appellants, 10 as appellees, and 41 as third participants.

The number of third participants in appeals increased following the introduction of certain amendments to the *Working Procedures* in May 2003 to facilitate the involvement of third participants.¹⁴ In 2005, appeals averaged 6.7 third participants¹⁵; in 2004 it was 6.6¹⁶; and, in 2003, the average was 5.0 third participants per appeal. For the period 1996 to 2003, the average number of third participants in appeals was only 2.8.

Annex 4 lists the appellants, other appellants, appellees, and third participants in appeals for which an Appellate Body Report was circulated between 1996 and 2005.

¹³This represents a 55 per cent increase in Member participation from 2004, when 27 WTO Members appeared at least once in the five appeals in which an Appellate Body report was circulated. (See *Appellate Body Annual Report for 2004*, WT/AB/3 (January 2005), pp. 6-7)

¹⁴See the *Appellate Body Annual Report for 2003*, WT/AB/1 (May 2004), pp. 9-12; and *Appellate Body Annual Report for 2004*, WT/AB/3 (January 2005), pp. 5-7 and 11-14.

¹⁵*US – Upland Cotton* (circulated in 2005) had 13 third participants; *EC – Export Subsidies on Sugar* had 22 third participants.

¹⁶*EC – Tariff Preferences* (circulated in 2004) had 17 third participants.

V. Subject Matter of Appeals

A. *Appellate Body Findings and Conclusions*

Annex 5 contains summaries of the Appellate Body's findings and conclusions in the nine Appellate Body Reports circulated in 2005.

B. *Agreements Covered*

The following table provides information about the WTO agreements covered in the nine Appellate Body Reports circulated in 2005.

TABLE 6: AGREEMENTS COVERED IN APPELLATE BODY REPORTS CIRCULATED IN 2005

Case	Appellate Body Report document number	WTO agreements covered
<i>US – Upland Cotton</i>	WT/DS267/AB/R	<i>Agreement on Agriculture</i> SCM Agreement GATT 1994 DSU
<i>US – Gambling</i>	WT/DS285/AB/R	GATS DSU
<i>Dominican Republic – Import and Sale of Cigarettes</i>	WT/DS302/AB/R	GATT 1994 DSU
<i>EC – Export Subsidies on Sugar</i>	WT/DS265/AB/R WT/DS266/AB/R WT/DS283/AB/R	<i>Agreement on Agriculture</i> SCM Agreement GATT 1994 DSU
<i>US – Countervailing Duty Investigation on DRAMS</i>	WT/DS296/AB/R	SCM Agreement DSU
<i>EC – Chicken Cuts</i>	WT/DS269/AB/R WT/DS286/AB/R	GATT 1994 DSU
<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i>	WT/DS282/AB/R	<i>Anti-Dumping Agreement</i> GATT 1994 DSU
<i>Mexico – Anti-Dumping Measures on Rice</i>	WT/DS295/AB/R	<i>Anti-Dumping Agreement</i> SCM Agreement DSU
<i>US – Softwood Lumber IV (Article 21.5 – Canada)</i>	WT/DS257/AB/RW	SCM Agreement GATT 1994 DSU

Two of these appeals dealt primarily with issues related to the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (the "*Anti-Dumping Agreement*")¹⁷, and two related mainly to the *Agreement on Agriculture* and the *Agreement on Subsidies and*

¹⁷Appellate Body Report, *US – Anti-Dumping Measures on Oil Country Tubular Goods*; Appellate Body Report, *Mexico – Anti-Dumping Measures on Rice*.

Countervailing Measures (the "*SCM Agreement*").¹⁸ One appeal focused on the *SCM Agreement*¹⁹, one on the *General Agreement on Trade in Services* (the "*GATS*")²⁰, and two on the *General Agreement on Tariffs and Trade 1994* (the "*GATT 1994*").²¹ The final appeal was the first appeal since 2003 of a panel established pursuant to Article 21.5 of the DSU. Annex 6 provides a statistical summary of the WTO agreements covered in Appellate Body Reports circulated through 2005.

C. *Procedural Issues*

Several appeals for which an Appellate Body Report was circulated during 2005 involved procedural issues, which are summarized in the following paragraphs.

In *US – Upland Cotton*, Brazil and the United States noted in writing—after consultation with the Appellate Body via the Appellate Body Secretariat—that it would not be possible for the Appellate Body to circulate its Report within the 90-day time limit referred to in Article 17.5 of the DSU. Brazil and the United States agreed that additional time was needed for several reasons: the issues arising in this appeal were particularly numerous and complex compared to prior appeals, which increased the burden on the Appellate Body and the WTO translation services (the Language Services and Documentation Division (the "LSDD")); the LSDD were unavailable during the WTO holiday period; and the Appellate Body was likely to be considering two or three other appeals during the same period. Brazil and the United States accordingly confirmed that they would deem the Appellate Body Report in this proceeding, issued no later than 3 March 2005, to be an Appellate Body Report circulated pursuant to Article 17.5 of the DSU. On 16 December 2004, the Appellate Body notified the Chair of the DSB that the expected date of circulation of its Report was 3 March 2005.²²

In *EC – Export Subsidies on Sugar*, Australia, Brazil, the European Communities, and Thailand informed the Chair of the DSB of a "procedural agreement" concluded between these four parties regarding the 60-day period provided for in Article 16.4 of the DSU for the adoption or appeal of the Panel Reports in that dispute. The parties requested the DSB to postpone consideration of the Panel Reports and to agree to an extension of the time period in Article 16.4 of the DSU to 31 January 2005. The DSB agreed to adopt the Panel Reports on or before 31 January 2005, unless decided by consensus not to do so, or unless a party notified the DSB of its decision to appeal. The European Communities filed a Notice of Appeal on 13 January 2005. After consultation with the Appellate Body via the Appellate Body Secretariat, the four parties understood that it would not be possible for the Appellate Body to circulate its Report in this appeal within the 90-day time limit referred to in Article 17.5 of the DSU. The parties accordingly confirmed that they would deem the Appellate Body Report in this proceeding, issued no later than 28 April 2005, to be an Appellate Body Report circulated pursuant to Article 17.5 of the DSU.²³

In the same appeal, the Appellate Body received an *amicus curiae* brief from an association of sugar producers. The Appellate Body did not find it necessary to take the brief into account in coming to its decision regarding the appeal. In addition, Canada requested, pursuant to Rule 18(5) of the *Working Procedures*, authorization from the Appellate Body Division hearing the appeal to correct a "typographical error" in its third participant's submission. The Division invited, pursuant to

¹⁸Appellate Body Report, *US – Upland Cotton*; Appellate Body Report, *EC – Export Subsidies on Sugar*.

¹⁹Appellate Body Report, *US – Countervailing Duty Investigation on DRAMS*.

²⁰Appellate Body Report, *US – Gambling*.

²¹Appellate Body Report, *Dominican Republic – Import and Sale of Cigarettes*; Appellate Body Report, *EC – Chicken Cuts*.

²²Appellate Body Report, *US – Upland Cotton*, para. 8.

²³Appellate Body Report, *EC – Export Subsidies on Sugar*, paras. 5-7.

Rule 18(5) of the *Working Procedures*, all participants and third participants to comment on Canada's request. None of the participants objected to Canada's request, and the Division authorized Canada to correct the error. Finally, Mauritius, another third participant, informed the Appellate Body that certain African–Caribbean–Pacific countries ("ACP countries")²⁴ were proposing to retain for the oral hearing the services of a legal counsel that had also been retained by two associations for European sugar and beet producers. Following receipt of written comments from Australia, Mauritius confirmed that the legal counsel appearing at the oral hearing would be doing so solely as representative of the WTO Members of the ACP countries that were third participants in this dispute.²⁵

In *EC – Chicken Cuts*, Thailand requested, pursuant to Rule 18(5) of the *Working Procedures*, authorization from the Appellate Body Division hearing the appeal to correct three "clerical errors" in its other appellant's submission. The Division invited, pursuant to Rule 18(5) of the *Working Procedures*, all participants and third participants to comment on Thailand's request. None of the participants objected to Thailand's request and the Division authorized Thailand to correct the errors.²⁶ In the same appeal, the Division received an *amicus curiae* brief from an association of poultry processors. The Division did not find it necessary to take the brief into account in resolving the issues raised in this appeal.²⁷

In *Mexico – Anti-Dumping Measures on Rice*, the participants asked at the outset to have all written submissions made available to all participants in English and in Spanish. Following consultations with the participants via the Appellate Body Secretariat, the Appellate Body Division hearing the appeal issued a Working Schedule for the appeal, taking into account time periods for translation of submissions estimated by the LSDD. Given the time required for the translation of submissions, it was not possible to circulate this Report within 90 days from the date the Notice of Appeal was filed. The participants confirmed in writing their agreement to deem the Appellate Body Report in this proceeding, issued no later than 29 November 2005, to be an Appellate Body Report circulated pursuant to Article 17.5 of the DSU.²⁸

After the submissions of all the participants had been filed with the Appellate Body Secretariat, Mexico requested the Division to modify the Working Schedule pursuant to Rule 16(2) of the *Working Procedures*. Mexico stated that the Working Schedule provided for "five calendar days" between the date Mexico would receive the translated appellee's and third participants' submissions, and the first day of the oral hearing, whereas the *Working Procedures* provide for 10 to 15 days for that period. The Division invited the United States and the third participants to comment on Mexico's request. The United States responded that it would not object to a "slight, further modification" of the Schedule. In its reply, the Division noted that the LSDD would provide a translation of the United States' appellee's submission two days earlier than scheduled, that is, eight days before the oral hearing. The Division concluded that, in these circumstances, maintaining the original Working Schedule "would not prejudice the ability of Mexico to defend its interests" and, therefore, declined Mexico's request.²⁹

²⁴Barbados, Belize, Côte d'Ivoire, Fiji, Guyana, Jamaica, Kenya, Madagascar, Malawi, Mauritius, St. Kitts & Nevis, Swaziland, Tanzania, and Trinidad & Tobago.

²⁵Appellate Body Report, *EC – Export Subsidies on Sugar*, paras. 9-11.

²⁶Appellate Body Report, *EC – Chicken Cuts*, para. 11.

²⁷*Ibid.*, para. 12.

²⁸Appellate Body Report, *Mexico – Anti-Dumping Measures on Rice*, para. 7.

²⁹*Ibid.*, paras. 9-10.

In *US – Softwood Lumber IV (Article 21.5 – Canada)*, the Appellate Body Division hearing the appeal requested, pursuant to Rule 28(1) of the *Working Procedures*, an additional written memorandum from the United States explaining certain aspects of relevant United States laws and procedures. Canada submitted, pursuant to Rule 28(2) of the *Working Procedures*, a written response to the United States' additional written memorandum and the Division allowed the third participants, pursuant to Rule 28(3) of the *Working Procedures*, additional time during the presentation of their oral statements at the hearing to comment on both additional memoranda.³⁰

VI. Working Procedures for Appellate Review

Amendments to the *Working Procedures* came into effect on 1 January 2005 and apply to all appeals initiated after that date.³¹ The revised, consolidated *Working Procedures* were circulated to WTO Members on 4 January 2005 as document WT/AB/WP/5.³²

VII. Arbitrations under Article 21.3(c) of the DSU

Appellate Body Members are called upon from time to time to determine the "reasonable period of time" for the implementation by a WTO Member of the recommendations and rulings of the DSB, through binding arbitration under Article 21.3(c) of the DSU. The parties to the arbitration select the arbitrator or, if they cannot agree on an arbitrator, the Director-General of the WTO appoints the arbitrator. In carrying out arbitrations under Article 21.3(c), Appellate Body Members act in an individual capacity.

Three Awards in Article 21.3(c) arbitrations were issued in 2005. Mr. A.V. Ganesan issued awards in *US – Oil Country Tubular Goods Sunset Reviews* on 7 June 2005 and in *EC – Export Subsidies on Sugar* on 29 October 2005. Former Appellate Body Member Mr. Claus-Dieter Ehlermann issued an award in *US – Gambling* on 19 August 2005. Summaries of these awards are included in Annex 5.

On 14 December 2005, former Appellate Body Member Mr. James Bacchus accepted the appointment by the parties to serve as Arbitrator to determine the "reasonable period of time" for the implementation by the European Communities of the recommendations and rulings of the DSB in *EC – Chicken Cuts*.³³ This arbitration is proceeding at the time of writing.

As at the end of 2005, serving and former Appellate Body Members have been appointed as Arbitrators in a total of 24 arbitrations under Article 21.3(c).³⁴ The Arbitrators are assisted in their work by the Appellate Body Secretariat.

³⁰Appellate Body Report, *US – Softwood Lumber IV (Article 21.5 Canada)*, para. 12.

³¹These amendments were set out and explained in a communication from the Chairman of the Appellate Body to the Chair of the DSB on 7 October 2004, circulated to WTO Members as document WT/AB/WP/W/9.

³²Certain previously issued documents were re-issued with new document numbers, as explained in Annex III to WT/AB/WP/5.

³³WT/DS269/12; WT/DS286/14.

³⁴In three of these arbitrations (*US – Line Pipe*; *US – Softwood Lumber V*; and *Dominican Republic – Import and Sale of Cigarettes*), the parties reached an agreement on the reasonable period of time before the arbitrator had issued an award, so it was not necessary for the arbitrator to issue an award. In these circumstances, the arbitrators issued short reports setting out the procedural history of the arbitration and noting that the matter was resolved by the parties.

VIII. Arbitrations in EC – The ACP-EC Partnership Agreement – Recourse to Arbitration Pursuant to the Decision of 14 November 2001

Following the request for arbitration by nine Latin American WTO Members³⁵—that were exporting bananas to the European Communities on most-favoured nation ("MFN") terms—the Director-General appointed two Appellate Body Members, Mr. John Lockhart and Mr. Yasuhei Taniguchi, to serve as Arbitrators in *EC – The ACP-EC Partnership Agreement*.³⁶ The arbitration was chaired by Mr. John Weekes, a trade policy expert and former Ambassador of Canada to the WTO and Chairman of the General Council. The arbitration was carried out pursuant to an annex to the Doha Ministerial decision³⁷ that granted the European Communities a waiver from the provisions of Article I of the GATT 1994 (the "Waiver Decision"), so as to allow it to provide preferential treatment to imports from certain ACP countries. The purpose of the arbitration was to determine whether certain envisaged changes to the European Communities' import regime for bananas "would result in at least maintaining total market access for MFN banana suppliers".

The Arbitrators determined that the European Communities' proposed tariff of €230 per metric ton of bananas would not maintain the requisite level of market access for MFN suppliers.³⁸ After a series of consultations between the nine WTO Members and the European Communities, and as foreseen by the annex to the Waiver Decision, the European Communities revised its tariff rate proposal and requested, on 26 September 2005, that the same Arbitrators determine whether a tariff rate of €187 per metric ton, together with a tariff rate quota of 775,000 metric tons for bananas of ACP origin, would maintain market access for MFN suppliers. On 27 October 2005, the Arbitrators determined that the European Communities had not rectified the matter.³⁹

The Arbitrators were assisted in their work by a team comprising lawyers and economists of both the WTO and Appellate Body Secretariats.

IX. Technical Assistance

The Appellate Body Secretariat participated in the implementation of the WTO Technical Assistance and Training Plan 2005 (the "2005 TA Plan")⁴⁰, particularly in activities relating to training in dispute settlement procedures. Appellate Body Secretariat staff conducted the dispute settlement modules for the Regional Trade Policy Courses held in Chile, Jamaica, Namibia, and Hong Kong, China; the basic principles module for the Regional Trade Policy Course held in Morocco; and the dispute settlement modules for three Trade Policy Courses held in Geneva. In addition, Appellate Body Secretariat staff participated in three Specialized Dispute Settlement Courses also held in Geneva; delivered one Regional Advanced Dispute Settlement Seminar in Uruguay; and presented four National Dispute Settlement Seminars in Argentina, Chile, Colombia,

³⁵The nine WTO Members that requested arbitration are Brazil, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Nicaragua, Panama, and Venezuela.

³⁶At the request of certain African, Caribbean, and Pacific ("ACP") banana exporting countries, the Arbitrators, after consultations with the parties, invited Saint Lucia, Cameroon, Côte d'Ivoire, Dominica, Dominican Republic, Ghana, Grenada, Jamaica, Kenya, Madagascar, Suriname, Tanzania, Belize and Saint Vincent and the Grenadines (the "relevant ACP Members") to participate, in a limited manner, in this arbitration. (Award of the Arbitrator, *The ACP-EC Partnership Agreement*, WT/L/616, para. 9)

³⁷Ministerial Conference, Fourth Session, "European Communities – The ACP-EC Partnership Agreement, Decision of 14 November 2001", WT/MIN(01)/15, WT/L/436.

³⁸Award of the Arbitrator, *The ACP-EC Partnership Agreement*, WT/L/616.

³⁹Award of the Arbitrator, *The ACP-EC Partnership Agreement II*, WT/L/625.

⁴⁰WT/COMTD/W/133/Rev.2.

and Peru and one in Geneva for Bolivian officials. Moreover, Appellate Body Secretariat staff participated as tutors in the e-training courses on "Introduction to the WTO and Basic Principles" offered by the WTO in English, French, and Spanish. Lastly, the Appellate Body Secretariat provided resource persons for six other activities falling under the 2005 TA Plan that took place in Geneva, as well as in Australia, the Philippines, South Africa, Thailand, and Hong Kong, China. Overall, the Appellate Body Secretariat participated in more than 26 Technical Assistance activities during the course of 2005, in the three official languages of the WTO.

X. Other Developments

A. *WTO Appellate Body Repertory of Reports and Awards 1995–2004*

In 2005, the Appellate Body Secretariat released a new publication entitled *WTO Appellate Body Repertory of Reports and Awards 1995–2004* (the "Repertory"), which compiles excerpts from Appellate Body Reports indexed by the provision of the WTO covered agreement examined, and by subject matter. In addition, the Repertory includes excerpts from awards issued in arbitrations under Article 21.3(c) of the DSU relating to the period of time granted to WTO Members to implement recommendations and rulings of the DSB. The Repertory also includes several tables and charts compiling facts and statistics on WTO dispute settlement.

The first edition of the Repertory in English was co-published by the WTO and Cambridge University Press in the spring of 2005. The Spanish and French versions were published by the WTO in the summer of 2005. The first edition contains Appellate Body Reports and Article 21.3(c) Arbitration Awards circulated through 7 April 2004.

A second edition of the Repertory will be released in 2006. The English version will be published by Cambridge University Press in the spring, and the Spanish and French versions will be published by the WTO later in the year. The second edition will contain excerpts from Appellate Body Reports and Article 21.3(c) Arbitration Awards circulated through 7 June 2005.

Copies of the Repertory can be ordered online at:

https://secure.vtx.ch/shop/boutiques/wto_index_boutique.html

The Repertory may also be consulted online at: www.wto.org/appellatebody.

B. *Tenth Anniversary Conferences*

In 2005, the Appellate Body launched a series of conferences to celebrate the Tenth Anniversary of the WTO Dispute Settlement System and the Appellate Body. The conferences have been hosted by academic institutions with which some Members of the Appellate Body are affiliated and have focused on current dispute settlement issues and the Appellate Body's contribution to the settlement of disputes. Participants have included current and former Appellate Body Members, high-ranking government representatives, WTO officials, academics, journalists, students, and civil society representatives. The first three conferences in the series were held in 2005.

The first conference took place in Stresa, Italy, from 11 to 13 March 2005. It was organized by the Research Centre on International Economic Organisations of the Universities of Piemonte Orientale, Turin, Genoa, Milan, and Bocconi. Mr. Giorgio Sacerdoti, Appellate Body Member and Professor at Bocconi University, was a member of the steering committee for this conference. A book containing the papers presented at Stresa will be co-published by the WTO and Cambridge University Press in the spring of 2006. The publication is entitled, *The WTO at Ten:*

The Contribution of the Dispute Settlement System, and will be available for purchase online at: <https://secure.vtx.ch/shop/boutiques/wto_index_boutique.html>.

The second conference in the series was held in São Paulo, Brazil, from 15 to 17 May 2005. It was organized by the Brazilian Institute of International Trade Law and Development (IDCID) in cooperation with the University of São Paulo (Law School/International Law Department – USP) and the Administrative Institute Foundation (FIA). Mr. Luiz Olavo Baptista, Appellate Body Member and Professor at the University of São Paulo Law School, was a member of the steering committee for this conference. A book compiling the papers presented at the São Paulo conference will be published in 2006 by Aduaneiras Press. The book is entitled, *OMC aos 10 – O Órgão de Apelação em Perspectiva*, and will be available for purchase online at: <www.aduaneiras.com.br>.

The third conference was held at the United Nations University in Tokyo, Japan, from 25 to 27 October 2005. It was organized by the Fair Trade Center and Tokyo Keizai University, in collaboration with Aoyama Gakuin University, the United Nations University Institute of Advanced Studies, and the Institute for International Studies and Training. Mr. Yasuhei Taniguchi, Appellate Body Member and Professor at Tokyo Keizai University, was a member of the conference steering committee, which was coordinated by the Fair Trade Center. The papers presented at the Tokyo conference will also be published. Publication is scheduled for the winter of 2006.

The final programmes for the first three conferences are included in Annex 7.

Three more conferences in the Tenth Anniversary series are scheduled for 2006. The next conference will take place in Cairo, Egypt from 11 to 13 February 2006. It will be organized by the Cairo Regional Centre for International Commercial Arbitration. Professor Georges Abi-Saab, Appellate Body Member, is on the conference steering committee. The Cairo conference will focus on issues relating to development. A tentative programme is included in Annex 7. Additional information about the conference, including registration procedures, is available online at: <www.crcica.org.eg>. Columbia University will host the final conference in the series in New York on 5 to 7 April 2006. Ms. Merit E. Janow, Member of the Appellate Body and Professor at Columbia University, is on the conference steering committee. Further information about the New York conference is available at: <www.sipa.columbia.edu/wto/>. It is also possible that a conference will take place in Sydney, Australia.

General information on the Tenth Anniversary conferences may be obtained online at: <www.wto.org/appellatebody>.

C. *WTO Internship Programme*

The Appellate Body Secretariat participates in the WTO internship programme, which allows post-graduate university students to gain practical experience and a deeper knowledge of the multilateral trading system. Interns in the Appellate Body Secretariat obtain first-hand experience of the substantive and procedural aspects of WTO dispute settlement and, in particular, appellate proceedings. The internship programme is open to nationals of WTO Members and also to nationals of countries and customs territories engaged in accession negotiations.

The Appellate Body Secretariat generally hosts two interns concurrently, and each internship is for a three-month period. Efforts are made to ensure that at least half the interns are from developing countries or economies in transition. During 2005, the Appellate Body Secretariat welcomed interns from Argentina, Australia, Colombia, Germany, Lithuania, Mexico, Peru, and Zimbabwe. A total of 42 students, of 31 nationalities, have completed internships with the Appellate Body Secretariat since 2001.⁴¹

⁴¹Data on internships for pre-2001 are not available.

Further information about the WTO internship programme, including eligibility requirements and application instructions, may be obtained online at:

www.wto.org/english/thewto_e/vacan_e/intern_e.htm

D. *In-House Briefings and Other Activities*

Appellate Body Secretariat staff often participates in briefings organized for groups visiting the WTO, including students. In these briefings, Appellate Body Secretariat staff speaks to visitors about the WTO dispute settlement system in general, and appellate proceedings in particular. During 2005, Appellate Body Secretariat staff gave briefings to 11 groups. Appellate Body Secretariat staff also participated as judges in the moot court competitions organized by the European Law Students' Association and by Sidley Austin Brown & Wood and the Institute of International Economic Law.

ANNEX 1

FORMER APPELLATE BODY MEMBERS

Name	Nationality	Term(s) of Office
James Bacchus	United States	1995-1999 1999-2003
Christopher Beeby	New Zealand	1995-1999 1999-2000
Claus-Dieter Ehlermann	Germany	1995-1997 1997-2001
Said El-Naggar	Egypt	1995-1999 1999-2000
Florentino Feliciano	Philippines	1995-1997 1997-2001
Julio Lacarte-Muró	Uruguay	1995-1997 1997-2001
Mitsuo Matsushita	Japan	1995-1999 1999-2000

FORMER CHAIRPERSONS OF THE APPELLATE BODY

Name	Nationality	Term(s) as chairperson
Julio Lacarte-Muró	Uruguay	7 February 1996 – 6 February 1997 7 February 1997 – 6 February 1998
Christopher Beeby	New Zealand	7 February 1998 – 6 February 1999
Said El-Naggar	Egypt	7 February 1999 – 6 February 2000
Florentino Feliciano	Philippines	7 February 2000 – 6 February 2001
Claus-Dieter Ehlermann	Germany	7 February 2001 – 10 December 2001
James Bacchus	United States	15 December 2001 – 14 December 2002 15 December 2002 – 10 December 2003
Georges Abi-Saab	Egypt	13 December 2003 – 12 December 2004
Yasuhei Taniguchi	Japan	17 December 2004 – 16 December 2005

ANNEX 2

APPEALS FILED: 1995–2005

Year	Number of Notices of Appeal filed
1995	0
1996	4
1997	6 ^a
1998	8
1999	9 ^b
2000	13 ^c
2001	9 ^d
2002	7 ^e
2003	6 ^f
2004	5
2005	10
Total	77

^aThis number includes two Notices of Appeal that were circulated at the same time in related matters, counted separately: *EC – Hormones (Canada)*; *EC – Hormones (US)*. A single Appellate Body Report was subsequently circulated in relation to these appeals.

^bThis number excludes one Notice of Appeal that was withdrawn by the United States, which subsequently filed another Notice of Appeal in relation to the same Panel Report: *US – FSC*.

^cThis number includes two Notices of Appeal that were circulated at the same time in related matters, counted separately: *US – 1916 Act (EC)*; *US – 1916 Act (Japan)*. A single Appellate Body Report was subsequently circulated in relation to these appeals.

^dThis number excludes one Notice of Appeal that was withdrawn by the United States, which subsequently filed another Notice of Appeal in relation to the same Panel Report: *US – Line Pipe*.

^eThis number includes one Notice of Appeal that was subsequently withdrawn: *India – Autos*, and excludes one Notice of Appeal that was withdrawn by the European Communities, which subsequently filed another Notice of Appeal in relation to the same Panel Report: *EC – Sardines*.

^fThis number excludes one Notice of Appeal that was withdrawn by the United States, which subsequently filed a new Notice of Appeal in relation to the same Panel Report: *US – Softwood Lumber IV*.

ANNEX 3

PERCENTAGE OF PANEL REPORTS APPEALED: 1996–2005^a

Year of adoption	All Panel Reports			Panel Reports other than Article 21.5 Reports ^b			Article 21.5 Panel Reports		
	<i>Panel Reports adopted^c</i>	<i>Panel Reports appealed^d</i>	<i>Percentage appealed^e</i>	<i>Panel Reports adopted</i>	<i>Panel Reports appealed</i>	<i>Percentage appealed</i>	<i>Panel Reports adopted</i>	<i>Panel Reports appealed</i>	<i>Percentage appealed</i>
1996	2	2	100%	2	2	100%	0	0	–
1997	5	5	100%	5	5	100%	0	0	–
1998	12	9	75%	12	9	75%	0	0	–
1999	10	7	70%	9	7	78%	1	0	0%
2000	19	11	58%	15	9	60%	4	2	50%
2001	17	12	71%	13	9	69%	4	3	75%
2002	12	6	50%	11	5	45%	1	1	100%
2003	10	7	70%	8	5	63%	2	2	100%
2004	8	6	75%	8	6	75%	0	0	–
2005	20	12	60%	17	11	65%	3	1	33%
Total	115	77	67%	100	68	68%	15	9	60%

^aNo Panel Reports were adopted in 1995.

^bUnder Article 21.5 of the DSU, a panel may be established to hear a "disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings" of the DSB upon the adoption of a previous Panel or Appellate Body Report.

^cThe Panel Reports in *EC – Bananas III (Ecuador)*, *EC – Bananas III (Guatemala and Honduras)*, *EC – Bananas III (Mexico)*, and *EC – Bananas III (US)* are counted as a single Panel Report. The Panel Reports in *US – Steel Safeguards* are also counted as a single Panel Report.

^dPanel Reports are counted as having been appealed where they are adopted as upheld, modified, or reversed by an Appellate Body Report. The number of Panel Reports appealed may differ from the number of Appellate Body Reports because some Appellate Body Reports address more than one Panel Report.

^ePercentages are rounded to the nearest whole number.

ANNEX 4

**PARTICIPANTS AND THIRD PARTICIPANTS IN APPEALS
CIRCULATED THROUGH 2005**

As of the end of 2005, there were 149 WTO Members¹, of which 66 (44 per cent) have participated in appeals in which Appellate Body Reports were circulated between 1996 and 2005.²

The rules pursuant to which Members participate in appeals as appellant, other appellant, appellee, or third participant are described above in Section IV.

I. STATISTICAL SUMMARY

WTO Member	Appellant	Other Appellant	Appellee	Third Participant	Total
Antigua & Barbuda	1	–	1	–	1
Argentina	2	1	3	4	10
Australia	2	1	5	11	19
Barbados	–	–	–	1	1
Belize	–	–	–	2	2
Benin	–	–	–	1	1
Bolivia	–	–	–	1	1
Brazil	8	3	10	9	30
Cameroon	–	–	–	1	1
Canada	8	6	14	12	40
Chad	–	–	–	1	1
Chile	2	–	1	4	7
China	–	1	1	8	10
Colombia	–	–	–	4	4
Costa Rica	1	–	–	3	4
Côte d'Ivoire	–	–	–	2	2
Cuba	–	–	–	3	3
Dominica	–	–	–	2	2
Dominican Republic	1	–	1	1	3
Ecuador	–	1	1	5	7
Egypt	–	–	–	1	1
El Salvador	–	–	–	2	2
European Communities	10	11	26	33	80
Fiji	–	–	–	1	1
Ghana	–	–	–	1	1
Grenada	–	–	–	1	1
Guatemala	1	1	1	2	5

¹On 11 December 2005, the Kingdom of Saudi Arabia became the 149th Member of the WTO.

²No appeals were filed and no Appellate Body reports were circulated in 1995, the year the Appellate Body was established.

WTO Member	Appellant	Other Appellant	Appellee	Third Participant	Total
Guyana	-	-	-	1	1
Honduras	1	1	2	1	5
Hong Kong, China	-	-	-	4	4
India	5	1	5	13	24
Indonesia	-	-	1	1	2
Israel	-	-	-	1	1
Jamaica	-	-	-	3	3
Japan	4	4	8	19	35
Kenya	-	-	-	1	1
Korea	4	2	5	6	17
Madagascar	-	-	-	1	1
Malaysia	1	-	1	-	2
Mauritius	-	-	-	2	2
Malawi	-	-	-	1	1
Mexico	3	1	4	13	21
New Zealand	-	2	5	6	13
Nicaragua	-	-	-	2	2
Nigeria	-	-	-	1	1
Norway	-	1	1	6	8
Pakistan	-	-	2	2	4
Panama	-	-	-	1	1
Paraguay	-	-	-	4	4
Peru	-	-	1	1	2
Philippines	1	-	1	1	3
Poland	-	-	1	-	1
Senegal	-	-	-	1	1
St Lucia	-	-	-	2	2
St Kitts & Nevis	-	-	-	1	1
St Vincent & the Grenadines	-	-	-	1	1
Suriname	-	-	-	1	1
Swaziland	-	-	-	1	1
Switzerland	-	1	1	-	2
Chinese Taipei	-	-	-	7	7
Tanzania	-	-	-	1	1
Thailand	3	-	4	3	10
Trinidad & Tobago	-	-	-	1	1
Turkey	1	-	-	1	2
United States	23	8	41	23	95
Venezuela	-	-	1	6	7
Total	82	46	148	255	531

II. DETAILS BY YEAR OF CIRCULATION

1996

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>US – Gasoline</i> WT/DS2/AB/R	United States	None	Brazil Venezuela	European Communities Norway
<i>Japan – Alcoholic Beverages II</i> WT/DS8/AB/R WT/DS10/AB/R WT/DS11/AB/R	Japan	United States	Canada European Communities Japan United States	None

1997

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>US – Underwear</i> WT/DS24/AB/R	Costa Rica	None	United States	India
<i>Brazil – Desiccated Coconut</i> WT/DS22/AB/R	Philippines	Brazil	Brazil Philippines	European Communities United States
<i>US – Wool Shirts and Blouses</i> WT/DS33/AB/R	India	None	United States	None
<i>Canada – Periodicals</i> WT/DS31/AB/R	Canada	United States	Canada United States	None
<i>EC – Bananas III</i> WT/DS27/AB/R	European Communities	Ecuador Guatemala Honduras Mexico United States	Ecuador European Communities Guatemala Honduras Mexico United States	Belize Cameroon Colombia Costa Rica Côte d'Ivoire Dominica Dominican Republic Ghana Grenada Jamaica Japan Nicaragua Saint Lucia St Vincent & the Grenadines Senegal Suriname Venezuela
<i>India – Patents (US)</i> WT/DS50/AB/R	India	None	United States	European Communities

1998

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>EC – Hormones</i> WT/DS26/AB/R WT/DS48/AB/R	European Communities	Canada United States	Canada European Communities United States	Australia New Zealand Norway
<i>Argentina – Textiles and Apparel</i> WT/DS56/AB/R	Argentina	None	United States	European Communities
<i>EC – Computer Equipment</i> WT/DS62/AB/R WT/DS67/AB/R WT/DS68/AB/R	European Communities	None	United States	Japan
<i>EC – Poultry</i> WT/DS69/AB/R	Brazil	European Communities	Brazil European Communities	Thailand United States
<i>US – Shrimp</i> WT/DS58/AB/R	United States	None	India Malaysia Pakistan Thailand	Australia Ecuador European Communities Hong Kong, China Mexico Nigeria
<i>Australia – Salmon</i> WT/DS18/AB/R	Australia	Canada	Australia Canada	European Communities India Norway United States
<i>Guatemala – Cement I</i> WT/DS60/AB/R	Guatemala	None	Mexico	United States

1999

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>Korea – Alcoholic Beverages</i> WT/DS75/AB/R WT/DS84/AB/R	Korea	None	European Communities United States	Mexico
<i>Japan – Agricultural Products II</i> WT/DS76/AB/R	Japan	United States	Japan United States	Brazil European Communities
<i>Brazil – Aircraft</i> WT/DS46/AB/R	Brazil	Canada	Brazil Canada	European Communities United States
<i>Canada – Aircraft</i> WT/DS70/AB/R	Canada	Brazil	Brazil Canada	European Communities United States
<i>India – Quantitative Restrictions</i> WT/DS90/AB/R	India	None	United States	None
<i>Canada – Dairy</i> WT/DS103/AB/R WT/DS113/AB/R	Canada	None	New Zealand United States	None
<i>Turkey – Textiles</i> WT/DS34/AB/R	Turkey	None	India	Hong Kong, China Japan Philippines
<i>Chile – Alcoholic Beverages</i> WT/DS87/AB/R WT/DS110/AB/R	Chile	None	European Communities	Mexico United States
<i>Argentina – Footwear (EC)</i> WT/DS121/AB/R	Argentina	European Communities	Argentina European Communities	Indonesia United States
<i>Korea – Dairy</i> WT/DS98/AB/R	Korea	European Communities	Korea European Communities	United States

2000

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>US – FSC</i> WT/DS108/AB/R	United States	European Communities	European Communities United States	Canada Japan
<i>US – Lead and Bismuth II</i> WT/DS138/AB/R	United States	None	European Communities	Brazil Mexico
<i>Canada – Autos</i> WT/DS139/AB/R	Canada	European Communities Japan	Canada European Communities Japan	Korea United States
<i>Brazil – Aircraft (Article 21.5 – Canada)</i> WT/DS46/AB/RW	Brazil	None	Canada	European Communities United States
<i>Canada – Aircraft (Article 21.5 – Brazil)</i> WT/DS70/AB/RW	Brazil	None	Canada	European Communities United States
<i>US – 1916 Act</i> WT/DS136/AB/R WT/DS162/AB/R	United States	European Communities Japan	European Communities Japan United States	European Communities ³ India Japan ⁴ Mexico
<i>Canada – Term of Patent Protection</i> WT/DS170/AB/R	Canada	None	United States	None
<i>Korea – Various Measures on Beef</i> WT/DS161/AB/R WT/DS169/AB/R	Korea	None	Australia United States	Canada New Zealand
<i>US – Certain EC Products</i> WT/DS165/AB/R	European Communities	United States	European Communities United States	Dominica Ecuador India Jamaica Japan St. Lucia
<i>US – Wheat Gluten</i> WT/DS166/AB/R	United States	European Communities	European Communities United States	Australia Canada New Zealand

³In complaint brought by Japan.

⁴In complaint brought by the European Communities.

2001

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>EC – Bed Linen</i> WT/DS141/AB/R	European Communities	India	European Communities India	Egypt Japan United States
<i>EC – Asbestos</i> WT/DS135/AB/R	Canada	European Communities	Canada European Communities	Brazil United States
<i>Thailand – H-Beams</i> WT/DS122/AB/R	Thailand	None	Poland	European Communities Japan United States
<i>US – Lamb</i> WT/DS177/AB/R WT/DS178/AB/R	United States	Australia New Zealand	Australia New Zealand United States	European Communities
<i>US – Hot-Rolled Steel</i> WT/DS184/AB/R	United States	Japan	Japan United States	Brazil Canada Chile European Communities Korea
<i>US – Cotton Yarn</i> WT/DS192/AB/R	United States	None	Pakistan	European Communities India
<i>US – Shrimp (Article 21.5 – Malaysia)</i> WT/DS58/AB/RW	Malaysia	None	United States	Australia European Communities Hong Kong, China India Japan Mexico Thailand
<i>Mexico – Corn Syrup (Article 21.5 – US)</i> WT/DS132/AB/RW	Mexico	None	United States	European Communities
<i>Canada – Dairy (Article 21.5 – New Zealand and US)</i> WT/DS103/AB/RW WT/DS113/AB/RW	Canada	None	New Zealand United States	European Communities

2002

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>US – Section 211 Appropriations Act</i> WT/DS176/AB/R	European Communities	United States	European Communities United States	None
<i>US – FSC (Article 21.5 – EC)</i> WT/DS108/AB/RW	United States	European Communities	European Communities United States	Australia Canada India Japan
<i>US – Line Pipe</i> WT/DS202/AB/R	United States	Korea	Korea United States	Australia Canada European Communities Japan Mexico
<i>India – Autos</i> ⁵ WT/DS146/AB/R WT/DS175/AB/R	India	None	European Communities United States	Korea
<i>Chile – Price Band System</i> WT/DS207/AB/R	Chile	None	Argentina	Australia Brazil Colombia Ecuador European Communities Paraguay United States Venezuela
<i>EC – Sardines</i> WT/DS231/AB/R	European Communities	None	Peru	Canada Chile Ecuador United States Venezuela
<i>US – Carbon Steel</i> WT/DS213/AB/R	United States	European Communities	European Communities United States	Japan Norway
<i>US – Countervailing Measures on Certain EC Products</i> WT/DS212/AB/R	United States	None	European Communities	Brazil India Mexico
<i>Canada – Dairy (Article 21.5 – New Zealand and US II)</i> WT/DS103/AB/RW2 WT/DS113/AB/RW2	Canada	None	New Zealand United States	Argentina Australia European Communities

⁵India withdrew its appeal the day before the oral hearing was scheduled to proceed.

2003

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>US – Offset Act (Byrd Amendment)</i> WT/DS217/AB/R WT/DS234/AB/R	United States	None	Australia Brazil Canada Chile European Communities India Indonesia Japan Korea Mexico Thailand	Argentina Costa Rica Hong Kong, China Israel Norway
<i>EC – Bed Linen (Article 21.5 – India)</i> WT/DS141/AB/RW	India	None	European Communities	Japan Korea United States
<i>EC – Tube or Pipe Fittings</i> WT/DS219/AB/R	Brazil	None	European Communities	Chile Japan Mexico United States
<i>US – Steel Safeguards</i> WT/DS248/AB/R WT/DS249/AB/R WT/DS251/AB/R WT/DS252/AB/R WT/DS253/AB/R WT/DS254/AB/R WT/DS258/AB/R WT/DS259/AB/R	United States	Brazil China European Communities Japan Korea New Zealand Norway Switzerland	Brazil China European Communities Japan Korea New Zealand Norway Switzerland United States	Canada Cuba Mexico Chinese Taipei Thailand Turkey Venezuela
<i>Japan – Apples</i> WT/DS245/AB/R	Japan	United States	Japan United States	Australia Brazil European Communities New Zealand Chinese Taipei
<i>US – Corrosion-Resistant Steel Sunset Review</i> WT/DS244/AB/R	Japan	None	United States	Brazil Chile European Communities India Korea Norway

2004

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>US – Softwood Lumber IV</i> WT/DS257/AB/R	United States	Canada	Canada United States	European Communities India Japan
<i>EC – Tariff Preferences</i> WT/DS246/AB/R	European Communities	None	India	Bolivia Brazil Colombia Costa Rica Cuba Ecuador El Salvador Guatemala Honduras Mauritius Nicaragua Pakistan Panama Paraguay Peru United States Venezuela
<i>US – Softwood Lumber V</i> WT/DS264/AB/R	United States	Canada	Canada United States	European Communities India Japan
<i>Canada – Wheat Exports and Grain Imports</i> WT/DS276/AB/R	United States	Canada	Canada United States	Australia China European Communities Mexico Chinese Taipei
<i>US – Oil Country Tubular Goods Sunset Reviews</i> WT/DS268/AB/R	United States	Argentina	Argentina United States	European Communities Japan Korea Mexico Chinese Taipei

2005

Case	Appellant	Other Appellant	Appellee	Third Participant
<i>US – Upland Cotton</i> WT/DS267/AB/R	United States	Brazil	Brazil United States	Argentina Australia Benin Canada Chad China European Communities India New Zealand Pakistan Paraguay Chinese Taipei Venezuela
<i>US – Gambling</i> WT/DS285/AB/R	United States	Antigua & Barbuda	Antigua & Barbuda United States	Canada European Communities Japan Mexico Chinese Taipei
<i>EC – Export Subsidies on Sugar</i> WT/DS265/AB/R WT/DS266/AB/R WT/DS283/AB/R	European Communities	Australia Brazil Thailand	Australia Brazil European Communities Thailand	Barbados Belize Canada China Colombia Côte d'Ivoire Cuba Fiji Guyana India Jamaica Kenya Madagascar Malawi Mauritius New Zealand Paraguay St. Kitts & Nevis Swaziland Tanzania Trinidad & Tobago United States

<i>Dominican Republic – Import and Sale of Cigarettes</i> WT/DS302/AB/R	Dominican Republic	Honduras	Dominican Republic Honduras	China El Salvador European Communities Guatemala United States
<i>US – Countervailing Duty Investigation on DRAMS</i> WT/DS296/AB/R	United States	Korea	Korea United States	China European Communities Japan Chinese Taipei
<i>EC – Chicken Cuts</i> WT/DS269/AB/R WT/DS286/AB/R	European Communities	Brazil Thailand	Brazil European Communities Thailand	China United States
<i>Mexico – Anti-Dumping Measures on Rice</i> WT/DS295/AB/R	Mexico	None	United States	China European Communities
<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i> WT/DS282/AB/R	Mexico	United States	Mexico United States	Argentina Canada China European Communities Japan Chinese Taipei
<i>US – Softwood Lumber IV (Article 21.5 – Canada)</i> WT/DS257/AB/RW	United States	Canada	Canada United States	China European Communities

ANNEX 5

**SUMMARIES OF APPELLATE BODY REPORTS AND
ARTICLE 21.3(c) ARBITRATION AWARDS CIRCULATED IN 2005¹**

I. APPELLATE BODY REPORTS

Appellate Body Report, *United States – Subsidies on Upland Cotton*, WT/DS267/AB/R, adopted 21 March 2005

This case involved a series of claims by Brazil against a number of United States subsidy measures paid in favour of producers of upland cotton and certain other agricultural products. The measures included marketing loan program payments, user marketing (step 2) payments, production flexibility contract payments, market loss assistance payments, direct payments, counter-cyclical payments, crop insurance payments, cottonseed payments, and export credit guarantees.

The first substantive issue concerned the Panel's finding that Article 13 of the *Agreement on Agriculture* (the "peace clause") did not shelter the United States' domestic support measures from challenge at the time the Panel's terms of reference were set. The Appellate Body upheld the Panel's finding that none of the United States measures at issue were "green box" measures in terms of paragraph 6 of Annex 2 to the *Agreement on Agriculture*. It also upheld the Panel's finding that the United States support measures provided "support to a specific commodity" in excess of that decided during the 1992 marketing year. On the basis of these findings, the Appellate Body upheld the Panel's conclusion that the United States measures at issue were not entitled to the exemption from actions provided by the peace clause.

In relation to Brazil's claims of "serious prejudice" under Part III of the *SCM Agreement*, the Appellate Body upheld the Panel's finding that the effect of marketing loan program payments, Step 2 payments, market loss assistance payments, and counter-cyclical payments is significant price suppression within the meaning of Article 6.3(c) of the *SCM Agreement*. In reaching this conclusion, the Appellate Body agreed with the Panel that a "world market" may be the "same market" for purposes of a claim of significant price suppression under Article 6.3(c) of the *SCM Agreement*, and it refused to disturb the Panel's factual findings that a world market for upland cotton exists; a world price in that market also exists; and Brazilian and United States upland cotton competed in that market. As for the amount of the subsidy, the Appellate Body held that the magnitude of a challenged subsidy and its relationship to prices is relevant in assessing the effect of the subsidy, but Article 6.3(c) does not require a precise definitive qualification. In the present case, the Panel did not err in its assessment of the amount of the subsidies. The Appellate Body disagreed with the United States that the effect of annually paid subsidies must be allocated solely to the year in which they are paid. Accordingly, the Appellate Body declined to reverse the Panel's finding of significant price suppression in the marketing years 1999 to 2002. The Appellate Body found that interpreting the words "world market share" in Article 6.3(d) of the *SCM Agreement* was unnecessary to resolve the dispute, so it neither upheld nor reversed the Panel's findings in this regard.

¹These summaries are intended solely for information and do not constitute an authoritative interpretation of the relevant decisions.

Concerning user marketing (Step 2) payments, the Appellate Body upheld the Panel's findings that Step 2 payments to domestic users of United States upland cotton, under Section 1207(a) of the United States FSRI Act of 2002², are subsidies contingent on the use of domestic over imported goods that are inconsistent with Articles 3.1(b) and 3.2 of the *SCM Agreement*. In addition, the Appellate Body upheld the Panel's findings that Step 2 payments to exporters of United States upland cotton, pursuant to Section 1207(a) of the FSRI Act of 2002, are subsidies contingent upon export performance within the meaning of Article 9.1(a) of the *Agreement on Agriculture* that are inconsistent with Articles 3.3 and 8 of that Agreement and with Articles 3.1(a) and 3.2 of the *SCM Agreement*.

Moreover, the Appellate Body upheld (with one separate opinion) the Panel's finding that Article 10.2 of the *Agreement on Agriculture* does not exempt export credit guarantees from the export subsidy disciplines in Article 10.1 of that Agreement. Consequently, it also upheld the Panel's finding that the United States export credit guarantee programmes at issue constitute a *per se* export subsidy within the meaning of item (j) of the Illustrative List of Export Subsidies in Annex I of the *SCM Agreement*, and are export subsidies for purposes of Article 3.1(a) of the *SCM Agreement* and are inconsistent with Articles 3.1(a) and 3.2 of that Agreement. The Appellate Body held, furthermore, that the Panel did not err in exercising judicial economy in respect of Brazil's allegation that the United States' export credit guarantee programs are prohibited export subsidies, under Article 3.1(a) of the *SCM Agreement*, because they confer a "benefit" within the meaning of Article 1.1 of that Agreement.

With respect to the circumvention of export subsidy commitments, the Appellate Body reversed the Panel's finding that Brazil did not establish actual circumvention in respect of poultry meat and pig meat, but was unable to complete the legal analysis to determine itself whether the United States' export credit guarantees to poultry meat and pig meat have been applied in a manner that "results in" circumvention of the United States' export subsidy commitments, within the meaning of Article 10.1 of the *Agreement on Agriculture*, because of insufficient uncontested facts in the record. The Appellate Body modified the Panel's interpretation of the phrase "threatens to lead to ... circumvention" in Article 10.1 of the *Agreement on Agriculture* to the extent that the Panel's interpretation requires "an unconditional legal entitlement" to receive the relevant export subsidies as a condition for a finding of threat of circumvention. However, the Appellate Body upheld, for different reasons, the Panel's finding that Brazil had not established that "the export credit guarantee programmes at issue are generally applied to scheduled agricultural products other than rice and other unscheduled agricultural products (not supported under the programmes) in a manner which threatens to lead to circumvention of United States export subsidy commitments within the meaning of Article 10.1 of the *Agreement on Agriculture*". The Appellate Body additionally found that the Panel did not err in confining its examination of Brazil's threat of circumvention claim to scheduled products other than rice and unscheduled products not supported under the United States' export credit guarantee programs.

Finally, the Appellate Body declined Brazil's request to reverse the Panel's conclusion that Brazil did not make a *prima facie* case that the ETI Act of 2000³ is inconsistent with the United States' WTO obligations.

²Farm Security and Rural Investment Act of 2002, Public Law 107-171.

³FSC Repeal and Extraterritorial Income Exclusion Act of 2000, Public Law 106-519.

Appellate Body Report, *United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services*, WT/DS285/AB/R, adopted 20 April 2005

The Appellate Body upheld the Panel's finding that a "total prohibition" on the cross-border supply of gambling and betting services cannot constitute, in and of itself, a "measure" subject to challenge in dispute settlement proceedings. The Appellate Body also found that Antigua had not made a *prima facie* case with respect to certain United States state laws. As the Panel therefore erred in examining the consistency of those laws with the United States' obligations under the GATS, the Appellate Body reversed the Panel's findings with respect to such state laws. With respect to Antigua's challenge to three United States federal laws, the Appellate Body upheld the Panel's findings that sub-sector 10.D of the United States' GATS Schedule includes a commitment to grant market access in gambling and betting services, and that the United States acts inconsistently with Article XVI:1 and sub-paragraphs (a) and (c) of Article XVI:2 of the GATS by maintaining limitations on market access not specified in its Schedule. The Appellate Body agreed with the Panel that the challenged federal laws fall within the scope of the interests protected under Article XIV(a) of the GATS, namely measures "to protect public morals and to maintain public order", but found, contrary to the Panel, that the challenged laws are "necessary" to protect those interests. Ultimately, however, the Appellate Body determined that the United States had not established that its federal laws were justified by upholding the Panel's finding that the United States had not demonstrated that these laws are applied in a non-discriminatory manner, as required by the chapeau of Article XIV.

Appellate Body Report, *European Communities – Export Subsidies on Sugar*, WT/DS265/AB/R, WT/DS266/AB/R, WT/DS283/AB/R, adopted 19 May 2005

The Appellate Body agreed with the Panel that Footnote 1 to Section II, Part IV of the European Communities' Schedule CXL is inconsistent with the European Communities' obligations under the *Agreement on Agriculture* and does not enlarge or otherwise modify the European Communities' commitment levels as specified in its Schedule. Footnote 1 refers to the European Communities' commitment levels and states: "Does not include exports of sugar of ACP and Indian origin on which the Community is not making any reduction commitments. The average of export in the period 1986 to 1990 amounted to 1,6 mio t." The Appellate Body found, *inter alia*, that Footnote 1 does not contain a commitment to "limit" subsidized exports of ACP/India sugar and that the footnote is inconsistent with Article 3.3 of the *Agreement on Agriculture* because it does not contain a budgetary outlay commitment in respect of export subsidies provided to ACP/India equivalent sugar.

The Appellate Body also upheld the Panel's finding that certain payments resulted in export subsidies within the meaning of Article 9.1(c) of the *Agreement on Agriculture*. On the basis of these findings, the Appellate Body upheld the Panel's conclusion that the European Communities had acted inconsistently with Articles 3.3 and 8 of the *Agreement on Agriculture* by providing export subsidies in excess of its commitment levels as specified in its Schedule. The Appellate Body also upheld the Panel's findings that the Complaining Parties acted in good faith, under Article 3.10 of the DSU, in the initiation and conduct of these dispute settlement proceedings and, assuming *arguendo* that the principle of estoppel applies, that they were not estopped, through their actions or silence, from alleging that the European Communities' exports of sugar are in excess of its export subsidy reduction commitments.

The Appellate Body, however, found that the Panel erred in exercising judicial economy with respect to the Complaining Parties' claims under Article 3 of the *SCM Agreement*, after finding violations under the *Agreement on Agriculture*. The Appellate Body held, *inter alia*, that, in declining to rule on these claims of the Complaining Parties, the Panel precluded the possibility of a remedy being made available to the Complaining Parties, pursuant to Article 4.7 of the *SCM Agreement*, in the event of the Panel finding in favour of the Complaining Parties with respect to their claims under Article 3 of the *SCM Agreement*. Nevertheless, the Appellate Body found that it was not in a position

to complete the legal analysis and to examine the Complaining Parties' claims under the *SCM Agreement* that were left unaddressed by the Panel, because it lacked the requisite factual findings to do so, and because the claims in question were not closely related to those that the Panel and the Complaining Parties fully addressed.

Appellate Body Report, *Dominican Republic – Measures Affecting the Importation and Internal Sale of Cigarettes*, WT/DS302/AB/R, adopted 19 May 2005

The Panel had addressed six measures that affected the importation and internal sale of cigarettes in the Dominican Republic. Two of these were relevant on appeal: the imposition of a requirement to affix tax stamps on imported cigarettes at the time of importation (and not during the manufacturing process of the cigarettes); and the requirement that all manufacturers and importers of cigarettes post a bond to secure payment of certain tax obligations. The Appellate Body upheld the Panel's findings on these issues and ruled against the appellant and other appellant in respect of certain procedural claims under Article 11 of the DSU and with respect to the terms of reference. In particular, the Appellate Body found that the tax stamp requirement found by the Panel to be in breach of Article III:4 of the GATT 1994 did not benefit from the general exception in Article XX(d) of the GATT 1994, which refers to "measures necessary to secure compliance with laws or regulations that are not inconsistent with the provisions of this Agreement". The Appellate Body also ruled that the bond requirement did not accord less favourable treatment to imports, and therefore was not inconsistent with Article III:4 of the GATT 1994.

Appellate Body Report, *United States – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMs) from Korea*, WT/DS296/AB/R, adopted 20 July 2005

The Appellate Body modified the Panel's interpretation of the terms "entrusts" and "directs" in Article 1.1(a)(1)(iv) of the *SCM Agreement* so as to clarify that the scope of actions covered by "entrustment" and "direction" could extend beyond what is covered by the terms "delegation" and "command" (used by the Panel). The Appellate Body also found that a private body may be "entrusted" or "directed" to take an action even where the private body does not ultimately carry out that action, although there would be no "financial contribution" in the absence of such an action. With respect to the Panel's review of the evidence underlying the finding by the United States Department of Commerce's (the "USDOC") of entrustment or direction of private Korean firms by the Government of Korea, the Appellate Body upheld the Panel's requirement that evidence of entrustment or direction be "probative and compelling" to the extent the Panel understood these terms to require only that the evidence demonstrate entrustment or direction. Nevertheless, the Appellate Body identified multiple errors in the Panel's evidentiary analysis, including the Panel's failure to examine properly the evidence in its totality and to apply the correct standard of review, including a failure to comply with its obligations under Article 11 of the DSU. The Appellate Body concluded that these errors undermined the Panel's conclusion that the evidence could not support the USDOC's finding of entrustment or direction and, therefore, reversed this conclusion, as well as the Panel's consequent finding of inconsistency with Article 1.1(a)(1)(iv). The Appellate Body further determined that, in the light of the facts on the record, it could not arrive at a conclusion on its own as to whether the USDOC's subsidy determination was consistent with Article 1.1(a)(1)(iv). Finally, with respect to the USDOC's conclusions as to benefit and specificity—two elements of an inquiry into the existence of a subsidy against which countervailing duties are to be imposed—the Appellate Body reversed the Panel's findings of inconsistency with Articles 1.1(b) and Article 2 of the *SCM Agreement* because they were premised on the finding of inconsistency with Article 1.1(a)(1)(iv), which the Appellate Body had already overturned. The Appellate Body determined that there were neither sufficient factual findings by the Panel nor undisputed facts in the record to allow it to complete the analysis under these two provisions.

Appellate Body Report, *European Communities – Customs Classification of Frozen Boneless Chicken Cuts*, WT/DS269/AB/R, WT/DS286/AB/R, adopted 27 September 2005

The Appellate Body upheld the Panel's findings that the products at issue, that is, frozen boneless chicken cuts that have been impregnated with salt with a salt content of 1.2 to 3 per cent, were covered by the tariff commitment under heading 02.10 of the European Communities' Schedule LXXX, which refers, *inter alia*, to "salted meat", and that the European Communities had imposed customs duties on these products in excess of that commitment. The Appellate Body therefore upheld the Panel's finding that the European Communities had acted inconsistently with the requirements of Articles II:1(a) and II:1(b) of the GATT 1994. In making these findings, the Appellate Body interpreted the term "salted" in heading 02.10 of the European Communities' Schedule in the light of Articles 31 and 32 of the *Vienna Convention on the Law of Treaties* (the "*Vienna Convention*")⁴; in its reasoning, the Appellate Body found that there had been a broad consensus among the GATT Contracting Parties to use the Harmonized System as the basis for their WTO Schedules, and that this consensus represented an "agreement" between WTO Members "relating to" the *WTO Agreement* that was "made in connection with the conclusion of" that Agreement, within the meaning of Article 31(2)(a) of the *Vienna Convention*. The Appellate Body furthermore discussed the notions of "subsequent practice" within the meaning of Article 31(3)(b) and "circumstances of conclusions" within the meaning of Article 32 of the *Vienna Convention*. The Appellate Body also upheld the Panel's finding that the Panel's terms of reference included two European Communities regulations but did not include two other measures claimed by the Complaining Parties to have had the same effect as those measures within the Panel's terms of reference.

Appellate Body Report, *United States – Anti-Dumping Measures on Oil Country Tubular Goods (OCTG) from Mexico*, WT/DS282/AB/R, adopted 28 November 2005

The Appellate Body held that it is not necessary to establish the existence of a causal link between likely dumping and likely injury in a sunset review of anti-dumping duties pursuant to Article 11.3 of the *Anti-Dumping Agreement*. Accordingly, the Appellate Body upheld the Panel's finding that the United States International Trade Commission did not act inconsistently with Article 11.3 of the *Anti-Dumping Agreement* in the sunset review of anti-dumping duties on oil country tubular goods from Mexico. However, the Appellate Body reversed the Panel's finding that the "Sunset Policy Bulletin" of the United States Department of Commerce is inconsistent with Article 11.3, ruling that the Panel failed to make an objective assessment of the matter, including an objective assessment of the facts of the case, as required by Article 11 of the DSU. Essentially, the Appellate Body found that the Panel did not adequately assess the evidence in order to come to its conclusion that the Sunset Policy Bulletin establishes an irrebuttable presumption regarding likelihood of continuation or recurrence of dumping.

Appellate Body Report, *Mexico – Definitive Anti-Dumping Measures on Beef and Rice, Complaint with Respect to Rice*, WT/DS295/AB/R, adopted 20 December 2005

Mexico challenged on appeal the Panel's findings of inconsistency relating to the United States' "as applied" and "as such" claims. As for the "as applied" claims, the Appellate Body rejected the Panel's understanding that an investigating authority must give notice of the information it requires to all interested parties known to it as well as to interested parties of which "it could reasonably have obtained knowledge". The Appellate Body found, instead, that the *Anti-Dumping Agreement* requires that such notice be provided only to those interested parties actually known to the investigating authority. As a result, the Appellate Body determined that exporters had received proper notice of both the initiation of the underlying investigation and the information required by the

⁴Done at Vienna, 23 May 1969, 1155 UNTS 331; 8 International Legal Materials 679.

agency, and that an individual margin had been calculated for each individual "known" exporter, consistent with Mexico's obligations under Articles 6.1, 6.10, and 12.1 of the *Anti-Dumping Agreement*. The Appellate Body upheld all the other findings of the Panel that were appealed, that is, the remaining findings of inconsistency on the "as applied" claims and the findings that certain provisions of the Mexican Foreign Trade Act are inconsistent, as such, with various provisions of the *Anti-Dumping Agreement* and the *SCM Agreement*. In the course of arriving at these conclusions, the Appellate Body also rejected Mexico's allegations that the United States had failed to make a *prima facie* case of inconsistency with respect to the Foreign Trade Act provisions, and that the Panel had not fulfilled its obligations under Article 11 of the DSU to "make an objective assessment of the matter before it, including an objective assessment of the facts of the case".

Appellate Body Report, *United States – Final Countervailing Duty Determination with Respect to Certain Softwood Lumber from Canada, Recourse by Canada to Article 21.5 of the DSU*, WT/DS257/AB/RW, adopted 20 December 2005

In the original *US – Softwood Lumber IV* proceedings, the DSB made rulings and recommendations in respect of, *inter alia*, the United States' failure to complete a "pass-through" analysis in its original Final Countervailing Duty Determination regarding softwood lumber from Canada. The United States subsequently informed the DSB that it had brought its original measure into compliance through a Section 129 Determination. The results of the first administrative review of the countervailing duties on imports of softwood lumber from Canada (the "First Assessment Review") were published a few days after the Section 129 Determination.

Canada initiated proceedings under Article 21.5 of the DSU and made claims against the pass through analyses in both the First Assessment Review and the Section 129 Determination. The United States requested the Panel to rule that the First Assessment Review was not a "measure taken to comply with the recommendations and rulings of the DSB" and, for that reason, not within its mandate. The Panel found that the pass-through analyses in both the Section 129 Determination and the First Assessment Review failed properly to implement the relevant DSB rulings and recommendations. The United States appealed the Panel's finding that the First Assessment Review fell within the scope of the Article 21.5 proceedings, as well as the findings made by the Panel in respect of this measure. The Appellate Body upheld the Panel's finding that it had jurisdiction to consider the pass-through analysis in the First Assessment Review because this analysis was so closely related, in terms of subject matter, timing, and effects, to both the measure at issue in the original proceedings (the Final Countervailing Duty Determination) and to the measure that the United States had notified to the DSB as its measure "taken to comply" (the Section 129 Determination), that it properly fell within the scope of the proceedings under Article 21.5 of the DSU. Thus, the Appellate Body found no basis for disturbing the findings of inconsistency made by the Panel with respect to the First Assessment Review.

II. ARTICLE 21.3(c) ARBITRATIONS⁵

Award of the Arbitrator, *United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina – Arbitration under Article 21.3(c) of the DSU, WT/DS268/12, 7 June 2005*

Mr. A.V. Ganesan, Member, Appellate Body, was appointed by the parties to serve as Arbitrator in *US – Oil Country Tubular Goods Sunset Reviews*. He determined that the "reasonable period of time" for the United States to implement the recommendations and rulings of the DSB was 12 months from the adoption of the Panel and Appellate Body Reports, and that this period would expire on 17 December 2005. The Arbitrator pointed out that the parties agreed that it is for the implementing Member to choose the most appropriate method of implementation, but that the Member must take advantage of the flexibility within its system to complete implementation as quickly as possible. The United States needed to bring into conformity with its WTO obligations certain regulations as well as a determination made by the United States Department of Commerce under those regulations. The Arbitrator noted the United States' position that the waiver provisions of the regulations would have to be brought into conformity before they could be applied to a new determination, although some of the steps in these two phases could be taken concurrently.

Award of the Arbitrator, *United States – Measures Affecting the Cross-Border Supply of Gambling and Betting Services – Arbitration under Article 21.3(c) of the DSU, WT/DS285/13, 19 August 2005*

Mr. Claus-Dieter Ehlermann, a former Appellate Body Member, was appointed by the Director-General to serve as Arbitrator. He determined that the "reasonable period of time" for the United States to implement the recommendations and rulings of the DSB in *US – Gambling* was 11 months and 2 weeks from the adoption of the Panel and Appellate Body Reports, that is, until 3 April 2006. The Arbitrator did not accept Antigua and Barbuda's ("Antigua") argument that, with respect to the three federal statutes that had been found to be inconsistent, the United States could, and should, implement in part through executive action, and in part through legislative action. As a result, the Arbitrator determined the reasonable period of time required for the United States to implement by *legislative* means.

The Arbitrator observed that implementation would bear on questions of public morals and public order, but in the absence of further information from the United States on these issues, the Arbitrator did not consider this a "particular circumstance". The Arbitrator took account of the fact that the United States Congress had previously passed legislative amendments relating to the same subject matter in only five months. The Arbitrator, however, declined Antigua's request to conclude that because the United States had adopted some legislation in the first six months of 2005, it could implement equally rapidly in this case, as well as Antigua's request to pay particular attention to the interests of Antigua as a developing country Member pursuant to Article 21.2 of the DSU, on the grounds that Antigua had not adduced sufficient evidence in support of either of these requests.

⁵On 22 July 2005, Mr. John Lockhart accepted the parties' request to act as arbitrator under Article 21.3(c) of the DSU in *Dominican Republic – Import and Sale of Cigarettes*. On 29 August 2005, he issued a report noting that the parties had reached agreement on the reasonable period of time and that, therefore, it would not be necessary for him to issue an award determining that time period. (Report of the Arbitrator, *Dominican Republic – Import and Sale of Cigarettes*, para. 6)

Award of the Arbitrator, *European Communities – Export Subsidies on Sugar*, WT/DS265/33, WT/DS266/33, WT/DS283/14, 28 October 2005

Mr. A.V. Ganesan, Member, Appellate Body, was appointed by the parties to serve as Arbitrator in *EC – Export Subsidies on Sugar*. He determined that the "reasonable period of time" for the European Communities to implement the recommendations and rulings of the DSB was 12 months and 3 days from the adoption of the Panel and Appellate Body Reports, and that this period would expire on 22 May 2006. The Arbitrator stated that it is for the implementing Member to choose the method of implementation, provided that this method is consistent with the Member's WTO obligations and may be implemented within a reasonable period of time. In addition, the Member must act in good faith in selecting the implementation method. The Arbitrator disagreed with the Complaining Parties (Australia, Brazil, and Thailand) that the only option available to the European Communities for implementation in this dispute was to limit or prohibit exports of sugar produced in excess of annual sugar quotas allocated to individual European Communities Member States (so-called "C sugar"). The Arbitrator also found that Brazil and Thailand had demonstrated their interests as developing-country Members for purposes of Article 21.2 of the DSU and that these interests were relevant for the determination of the reasonable period of time in this arbitration.

ANNEX 6

WTO AGREEMENTS COVERED IN APPELLATE BODY REPORTS CIRCULATED THROUGH 2005^a

Year of Circulation	DSU	WTO Agmt	GATT 1994	Agriculture	SPS	ATC	TBT	TRIMs	Anti-Dumping	Import Licensing	SCM	TRIPS	GATS	Safeguards
1996	0	0	2	0	0	0	0	0	0	0	0	0	0	0
1997	4	1	5	1	0	2	0	0	0	1	1	1	1	0
1998	7	1	4	1	2	0	0	0	1	1	0	0	0	0
1999	7	1	6	1	1	0	0	0	0	0	2	0	0	1
2000	8	1	7	2	0	0	0	0	2	0	5	1	1	2
2001	7	1	3	1	0	1	1	0	4	0	1	0	0	2
2002	8	2	4	3	0	0	1	0	1	0	3	1	1	1
2003	4	2	3	0	1	0	0	0	4	0	1	0	0	1
2004	2	0	5	0	0	0	0	0	2	0	1	0	0	0
2005	9	0	5	2	0	0	0	0	2	0	4	0	1	0
Total	56	9	44	11	4	3	2	0	16	2	18	3	4	7

^a No appeals were filed in 1995.

ANNEX 7

TENTH ANNIVERSARY CONFERENCES

PROGRAMMES FOR 2005

The WTO at Ten

The Role of the Dispute Settlement System

11 to 13 March 2005
Stresa, Italy

*Inter-University "Research Centre on International Economic Organisations"
of the Universities of Piemonte Orientale, Turin, Genoa, Milan, Bocconi*

The conference addressed basic issues confronted by the current "rule oriented" multilateral trading system and its innovative dispute settlement system, on the occasion of the tenth anniversary of the WTO and of its Appellate Body. The conference featured discussions between legal experts, diplomats, and officials from the WTO community in Geneva, government officials from Member governments, NGOs, and other international experts.

Friday, 11 March 2005 (8 p.m.)

Inaugural Dinner and Opening Address:

"Ten Years after the Conclusion of the Uruguay Round: Bilateralism, Regionalism and the Multilateral Trading System"

Speaker: H.E. Mr. Renato Ruggiero, Ambassador and Former Director-General of the WTO

Saturday, 12 March 2005 (Morning)

The Challenges to the WTO from Within and Without

1st Session: "The Doha Round and the Future of the WTO"

Moderator: Mr. Danilo Taino, Special Economics Correspondent, Corriere della Sera

Discussants:

Mr. E. Barón Crespo, Chair, European Parliament Committee on International Trade

Mr. Patrick Low, Director, Economic Research and Statistics Division, WTO

H.E. Ms. Amina Mohamed, Ambassador, Permanent Mission of Kenya to the WTO, Chair of the Dispute Settlement Body

2nd Session: "The Limits of the WTO: Facing Non-Trade Issues"

Moderator: Prof. Fabrizio Onida, Bocconi University

Reporter: Prof. Friedl Weiss, University of Amsterdam

Discussants:

Mr. Guy Ryder, General Secretary, International Confederation of Free Trade Unions

Prof. Francesco Francioni, European University Institute, Florence

Mr. Jeremy Hobbs, Executive Director, Oxfam International

Saturday, 12 March 2005 (Afternoon)

The Dispute Settlement System in Action

3rd Session: "Trade Negotiations and Dispute Settlement: What Balance Between Political Governance and Judicialization?"

Chair: Prof. Claus-Dieter Ehlermann, Counsel, Wilmer Cutler Pickering Hale and Dorr; and former Chairman of the Appellate Body

Reporter: Prof. Robert Howse, University of Michigan (with Susan Esserman)

Discussants:

Prof. Ernst-Ulrich Petersmann, European University, Florence

Prof. Hélène Ruiz-Fabri, University of Paris

H.E. Mr. Alejandro Jara, Ambassador of Chile to the WTO

Mr. Tim Reif, Chief Democratic Trade Counsel, Committee on Ways and Means, US House of Representatives

4th Session: "From Initiating Proceedings to Ensuring Implementation: What Needs Improvement?"

Chair: H.E. Mr. David Spencer, Ambassador, Permanent Mission of Australia to the WTO and Chairman of the Special Session of the Dispute Settlement Body

Reporter: Ms. Valerie Hughes, Director, Appellate Body Secretariat, WTO

Discussants:

Prof. Thomas Cottier, University of Bern

Mr. Pieter-Jan Kuijper, Principal Legal Advisor, External Relations, European Commission

Prof. Jacques Bourgeois, Collège Europe, Bruges ; Partner, Akin Gump LLP, Brussels

Mr. Daniel Brinza, Assistant US Trade Representative for Monitoring and Enforcement, Office of the US Trade Representative

Saturday, 12 March 2005 (Evening Dinner)

Key Note Address

Speaker: Dr. Supachai Panitchpakdi, Director-General, WTO

Dinner chaired by H.E. Mr. Paolo Bruni, Ambassador and Permanent Representative of Italy to the WTO

Sunday, 13 March 2005 (Morning)

The Dispute Settlement System in Perspective

5th Session: "1995-2004, Ten Years and 64 Cases Later: The Contribution of the Appellate Body to the Development of International Trade Law"

Chairman: Judge John Lockhart, Member of the Appellate Body

Reporter: Prof. Peter Van den Bossche, University of Maastricht

Discussants:

Prof. Brigitte Stern, Directrice du CEDIN, *Centre de droit international de l'Université de Paris I*

Prof. Donald McRae, University of Ottawa

Prof. Petros Mavroidis, Columbia University and University of Neuchâtel

Ms. Gabrielle Marceau, Counsellor, Legal Affairs Division, WTO

Final Round Table: "Treaty Interpretation in International Law: Comparing the Appellate Body with the Courts in the Hague, Hamburg and Luxembourg"

Chair: Prof. Georges Abi-Saab, Member and former Chairman of the Appellate Body

Participants:

H.E. Judge Gilbert Guillaume, Member and former Chairman of the International Court of Justice

H.E. Judge Paolo Mengozzi, European Court of Justice, Court of First Instance

H.E. Judge Allan Rosas, European Court of Justice, Luxembourg

H.E. Judge Tullio Treves, International Tribunal for the Law of the Sea

Closing Remarks: Prof. Giorgio Sacerdoti, Bocconi University and Member of the Appellate Body

The WTO at Ten
A Look at the Appellate Body

15 to 17 May 2005
São Paulo, Brazil

Brazilian Institute of International Trade Law and Development (IDCID
in cooperation with
University of São Paulo (Law School/International Law Department - USP)
Administrative Institute Foundation (FIA)

Monday, 16 May 2005 (Morning)

Credentials

Opening Address: Luiz Olavo Baptista, Maristela Basso, Eduardo Silveira Marchi, Rubens Barbosa

1st Session: "The First Years of the Appellate Body and the WTO Dispute Settlement System: A Historical Perspective"

Chair: Luiz Felipe Seixas Corrêa

Discussants:

Julio Lacarte-Muró (Session opening speech)

Luiz Felipe Lampreia

Luiz Felipe Seixas Corrêa

2nd Session: "The WTO Appellate Body's Role: A View From the Academic and Diplomatic Communities"

Chair: Umberto Celli Junior

Discussants:

Hélène Ruiz-Fabri (Session opening speech)

Valerie Hughes

Vera Thorstensen

Monday, 16 May 2005 (Afternoon)

3rd Session: "The Panel Process and the Appellate Body: Locus for Legal and Cultural Convergence"

Chair: Yasuhei Taniguchi

Discussants:

Luiz Olavo Baptista (Session opening speech)

Umberto Celli Júnior

Alan Yanovich

4th Session: "Jurisdiction and Interpretation: WTO dispute settlement in the international law context"

Chair: José Carlos de Magalhães

Discussants:

Georges Abi-Saab (Session opening speech)

Debra Steger

Werner Meng

Tuesday, 17 May 2005 (Morning)

5th Session: "Agriculture Related Disputes in the WTO System"

Chair: Luiz Olavo Baptista

Discussants:

Marcos Jank (Session opening speech)

Mario Mugnaini

Pedro Camargo Neto

Roberto Azevedo

6th Session: "Regional and Multilateral Dispute Settlement Systems: A Comparative Perspective"

Chair: Alberto do Amaral Junior

Discussants:

Felix Peña (Session opening speech)

Richard Chriss

Victor Luiz do Prado

Tuesday, 17 May 2005 (Afternoon)

7th Session: "The WTO Dispute Settlement System in the Next Ten Years: Proposals for Systemic and Procedural Reforms"

Chair: Georges Michel Abi-Saab

Discussants:

Celso Lafer (Session opening speech)

Antonio Garbelini Junior

James Bacchus

Renato Flores

8th Session: "Weaknesses and Proposed Improvements to the WTO Dispute Settlement System: An Economic and Market View"

Chair: Vera Thostensen

Gregory Shaffer (Session opening speech)

Tito Amaral de Andrade

Celso Grisi

9th Session: "Participation of Civil Society and the WTO Dispute Settlement System"

Chair: Francisco Rezek

Discussants:

Alice Palmer (Session opening speech)

Rubens Barbosa

Mauro Berenholc

Rafael Benke

Closing Remarks: Alberto do Amaral Júnior

*The WTO at Ten:
Dispute Settlement, Multilateral Negotiation, Regional Integration*

**25 to 27 October 2005
Tokyo, Japan**

*Fair Trade Center and Tokyo Keizai University
in collaboration with
Aoyama Gakuin University
United Nations University Institute of Advanced Studies
Institute for International Studies and Training*

Tuesday, 25 October 2005 (Morning)

The WTO Dispute Settlement Mechanism

Opening Address: Mr. Takashi Iwamoto, Executive Director, Fair Trade Center

Welcome Remarks: Prof. Hans J.A. van Ginkel, Rector, United Nations University

Opening Speech: Prof. Yasuhei Taniguchi, Chairman of the Appellate Body, WTO; Faculty of Contemporary Law, Tokyo Keizai University; Professor Emeritus of Kyoto University

Keynote Speeches:

Chair: Prof. Yasuhei Taniguchi

Dr. Supachai Panitchpakdi, Secretary-General, UNCTAD; former Director-General, WTO

Prof. John H. Jackson, University Professor of Georgetown University Law Center

Dr. Chulsu Kim, Senior Advisor, Lee International IP & Law Group; former Deputy Director-General, WTO

Tuesday, 25 October 2005 (Afternoon)

1st Session Panel Discussion: "Accomplishments of the WTO Dispute Settlement Mechanism"

Coordinator: Mr. A.V. Ganesan, Member of the Appellate Body, WTO

Panelists:

Ms. Valerie Hughes, Director of the Appellate Body Secretariat, WTO

Prof. Mitsuo Matsushita, Professor Emeritus of the University of Tokyo; former Member of the Appellate Body, WTO

Prof. William J. Davey, University of Illinois College of Law; former Director of Legal Affairs Division, WTO

2nd Session Panel Discussion: "Future Challenges for the WTO Dispute Settlement Mechanism"

Coordinator: Judge John Lockhart, Member of the Appellate Body, WTO

Panelists:

Prof. Akio Shimizu, Waseda Law School, Waseda University

Prof. Ernst-Ulrich Petersmann, European University Institute, Florence

Mr. Alan Yanovich, Counsellor, Appellate Body Secretariat, WTO

Mr. Manabu Miyagawa, Director, Economic Security Division (former Director, WTO Dispute Settlement Division), Economic Affairs Bureau, Ministry of Foreign Affairs

3rd Session Panel Discussion: "Business and the WTO Dispute Settlement Mechanism"

Coordinator: Prof. Seung Wha Chang, College of Law, Seoul National University

Panelists:

Prof. Gregory Shaffer, University of Wisconsin Law School

Mr. Andrew W. Shoyer, Partner, Sidley Austin Brown & Wood, Washington DC

Mr. Soichiro Sakuma, General Manager of Legal Affairs Division, Nippon Steel Corporation

Mr. Shigehiro Tanaka, Director, Multilateral Trade System Department, Trade Policy Bureau, Ministry of Economy, Trade and Industry (METI)

Wednesday, 26 October 2005 (Morning)

The Way Forward to a Successful Doha Development Agenda

4th Session Panel Discussion: "Major Issues of the DDA Negotiation"

Coordinator: Prof. Merit E. Janow, Member of the Appellate Body, WTO; School of International and Public Affairs, Columbia University

Panelists:

Prof. Henry S. Gao, Faculty of Law, University of Hong Kong

Prof. Masayoshi Honma, Faculty of Agriculture, University of Tokyo

Prof. Akira Kotera, Department of Advanced Social and International Studies, University of Tokyo

Commentator: Mr. Jeremy Hobbs, Executive Director of Oxfam International

Wednesday, 26 October 2005 (Afternoon)

5th Session Panel Discussion: "Beyond the Doha Round"

Coordinator: Prof. Ichiro Araki, Department of International and Business Law, Yokohama National University

Panelists:

Prof. John H. Jackson, University Professor of Georgetown University Law Center

Dr. Frieder Roessler, Executive Director, Advisory Centre on WTO Law (ACWL); former Director of Legal Affairs Division, WTO

Ambassador Datuk M. Supperamaniam, former Permanent Representative of Malaysia to WTO

Mr. James P. Durling, Partner, Willkie Farr & Gallagher, Washington DC

6th Session Panel Discussion: "WTO and Issues of Sustainable Development"

Coordinator: Prof. Shujiro Urata, Graduate School of Asia-Pacific Studies, Waseda University

Panelists:

Prof. Gary P. Sampson, Institute of Advanced Studies, United Nations University; former Senior Counsellor, WTO

Mr. Mark Halle, Director and European Representative, International Institute for Sustainable Development (IISD)

Dr. Chotiras Chavanich, President of Eastern Asia University, Thailand

Thursday, 27 October 2005 (Morning)

Free Trade Agreements and Business Activities in Asia

7th Session Panel Discussion: "Major Issues of Free Trade Agreements in Asia"

Coordinator: Prof. Junji Nakagawa, Institute of Social Science, University of Tokyo

Panelists:

Prof. Dukgeun Ahn, Graduate School of International Studies, Seoul National University

Prof. Guiguo Wang, School of Law, City University of Hong Kong

Prof. Chin Leng Lim, Faculty of Law, National University of Singapore

Prof. Chang-fa Lo, Dean, College of Law, Taiwan University

Prof. Lawan Thanadsillapakul, Institute for International Economic & Business Law Studies, Thailand

Thursday, 27 October 2005 (Afternoon)

8th Session Panel Discussion: "Prospects of the Regional Economic Cooperation in APEC"

Coordinator: Dr. Charles A. Barrett, Senior Executive Advisor, The Conference Board of Canada

Panelists:

Prof. Zhang Yuqing, Advisor, Shanghai WTO Affairs Consultation Center

Ms. Margaret Liang, Consultant, Ministry of Foreign Affairs, Singapore

Prof. Gabrielle Marceau, Counsellor, Cabinet of Director-General Pascal Lamy, WTO; University of Geneva

Prof. Nohyoung Park, Director, International Economic Law Institute of Korea, Korea University

Closing Remarks:

Mr. Kaoru Ishikawa, Director-General, Economic Affairs Bureau, Ministry of Foreign Affairs

Prof. Yasuhei Taniguchi, Chairman of the Appellate Body, WTO; Faculty of Contemporary Law, Tokyo Keizai University

Professor Emeritus, Kyoto University

TENTATIVE PROGRAMMES FOR 2006

The WTO at 10

The Role of Developing Countries in Negotiations and Dispute Settlement

11 to 13 February 2006
Cairo, Egypt

DRAFT PROGRAM

Saturday, 11 February 2006 (Morning)

Opening Session:

- Overall introduction to conference
- Tribute to Said El-Naggar, Former Appellate Body Member

1st Session: "The WTO at Ten: From Marrakesh to Hong Kong and Beyond"

- Objective: Stock-taking after the Hong Kong Ministerial held in December, providing, at the same time, an introduction to the main areas covered by the ongoing Doha Development Agenda negotiations. The initial speaker would trace the history of the GATT/WTO, looking at how negotiations initially focused on tariffs, followed by rules relating to trade in goods and then expanding into new sectors, such as services, and intellectual property. The other speakers would focus on particular sectors, namely, non-agricultural goods, including textiles (referred to as "NAMA"); agriculture; services; and, intellectual property, including access to medicines.

Saturday, 11 February 2006 (Afternoon)

2nd Session: "Special and Differential Treatment in the WTO Agreements and its Relationship to the Basic Principles Underlying the Multilateral Trading System"

- Objective: Present a survey of the provisions in the covered agreements relating to special and differential treatment ("S&D") for developing and least-developed countries and of how these provisions have been applied in practice. Examine the relationship between the S&D provisions and the basic principles underlying the multilateral trading system, such as national treatment and most-favoured nation treatment. Assess the effectiveness of current S&D provisions and discuss S&D proposals made in the context of the Doha Development Agenda.

3rd Session: "How Can Developing Countries Participate More Effectively in Trade Negotiations?"

- Objective: Discuss developing country participation in GATT/WTO negotiations. The discussion could include a comparison of the experiences of different developing countries (such as Egypt, Brazil, and India) in the negotiations. Capacity-building efforts in the area of trade negotiations could also be assessed. Linkages between negotiations and dispute settlement could also be explored.

Sunday, 12 February 2006 (Morning)

4th Session: "Developing Country Participation in Dispute Settlement Proceedings: Who, What, Why and How?"

- Objective: Provide an overview of WTO dispute settlement procedures. Assess the participation of developing countries in WTO dispute settlement. The discussion could include looking at the experience that particular developing countries have had as participants in the system. It could also examine proposals for building capacity in the area of dispute settlement.

5th Session: "The Rules of the Game: Can the DSU Be Clarified and Improved to Assist Developing Countries?"

- Objective: Review the state-of-play of the DSU review negotiations, focusing on the participation of developing countries in the negotiations and on the proposals relating to developing country participation in dispute settlement.

Sunday, 12 February 2006 (Afternoon)

6th Session: "Dispute Settlement in Practice – Multilateral Rules on Trade Remedies: Case Study 1 – The US – Steel Safeguards dispute"

- Objective: The case study will be conducted as a workshop. The dispute will be used to review the procedural stages that are followed in a WTO dispute. Relevant substantive issues relating to the Agreement on Safeguards and trade in industrial goods will also be discussed. The participation of developing countries in this dispute will also be examined.

7th Session: "Dispute Settlement in Practice – Multilateral Rules on Trade Remedies: Case study 2 – The EC – Bed Linen dispute"

- Objective: This case study also will be conducted as a workshop. The review of WTO dispute settlement procedures will include proceedings under Article 21.5 of the DSU. Relevant substantive issues relating to the *Anti-Dumping Agreement* and trade in textiles will also be discussed. The participation of developing countries in this dispute will also be examined.

Monday, 13 February 2006 (Morning)

8th Session: "The Role of the Appellate Body and its Contribution to the Development of the Law"

- Objective: Examine the role of the Appellate Body in the WTO dispute settlement system and assess its jurisprudence. Also, examine the Appellate Body's broader contribution to the international dispute settlement, including a comparison with other international dispute settlement institutions.

Closing Session: "The Relationship Between Negotiations and Dispute Settlement"

- Objective: Discuss possible conclusions that could be drawn from the previous sessions, particularly looking at the links between trade negotiations and dispute settlement.
