

รายการอ้างอิง

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ภาคผนวก

ภาคผนวก 1

แผนภูมิ

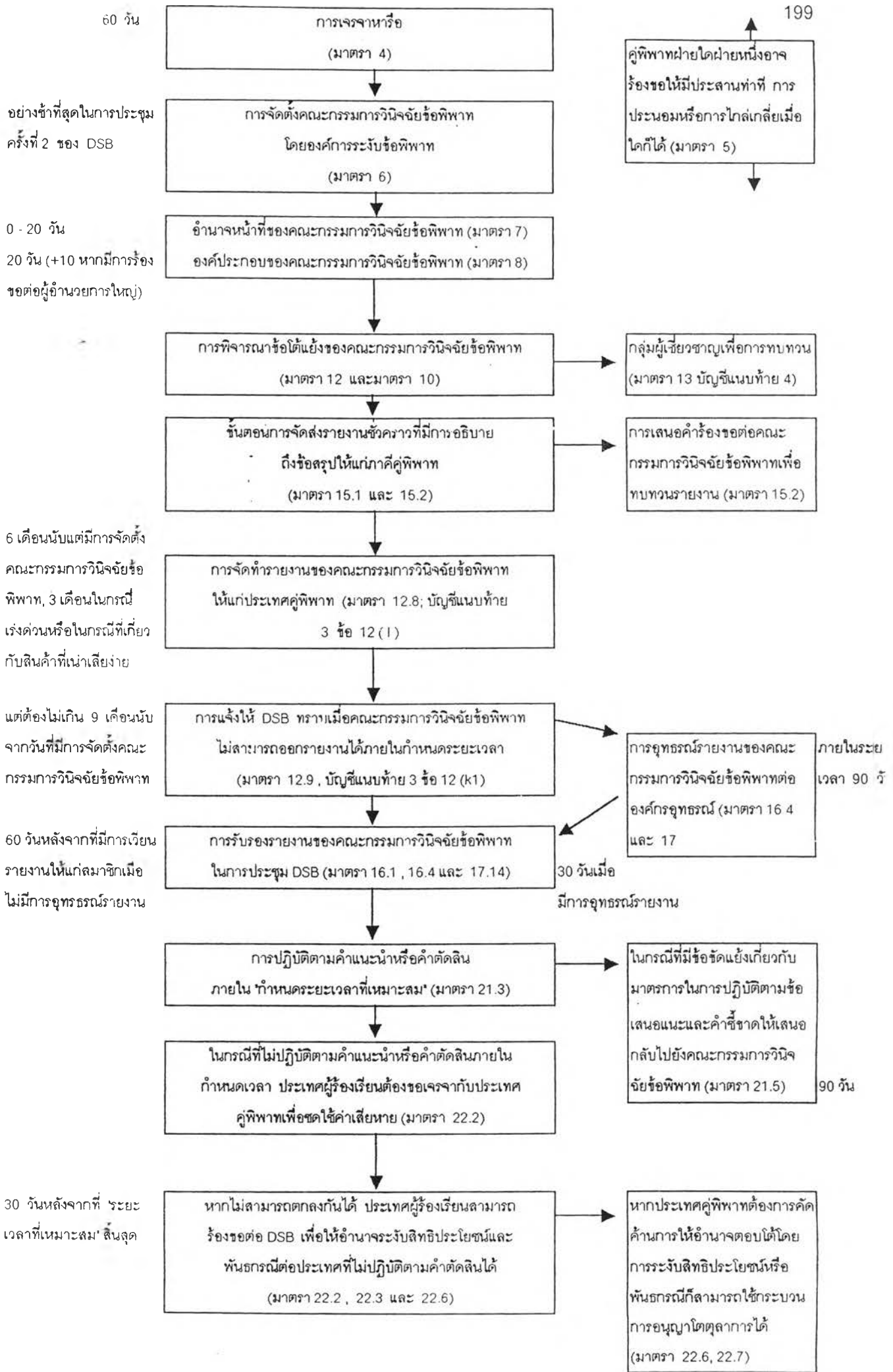
แสดง

ขั้นตอนและกระบวนการระงับข้อพิพาท

ใน

ความเข้าใจว่าด้วยกฎเกณฑ์และกระบวนการจัดการระงับข้อพิพาท

ภายใต้ข้อตกลงจัดตั้งองค์การการค้าโลก



ภาคผนวก 2

ตารางแสดงปัญหาข้อพิพาทระหว่างประเทศพัฒนาแล้วกับประเทศกำลังพัฒนา
ตั้งแต่ปี 1947-2000

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
1.	เชคโกสโลวาเกีย	สหรัฐอเมริกา	การจำกัดการส่งออกที่มีต่อเชคโก-สโลวาเกีย (Restrictions on exports to Czechoslovakia)	BISD II/28
2.	ฝรั่งเศส	บราซิล	การจัดเก็บภาษีภายในประเทศของบราซิล (Brazilian internal taxes)	BISD II/181 และ 186
3.	ชิลี	ออสเตรเลีย	การช่วยอุดหนุนแอมโมเนียมซัลเฟตของออสเตรเลีย (Austialian Subsidy on ammonium Sulphate)	BISD II/188
4.	เชคโกสโลวาเกีย	สหรัฐอเมริกา	การเพิกถอนข้อตกลงอัตราภาษีศุลกากรภายใต้มาตรา XIX (Withdrawal of tariff concession under Art. XIX)	BISD II/28
5.	สหราชอาณาจักร	กรีซ	การเพิ่มภาษีการนำเข้า (สัมประสิทธิ์การแลกเปลี่ยนเงินตรา) Increase of import duties (Coefficient for currency conversion)	BISD 1S/23 และ 1S/51
6.	บราซิล	สหราชอาณาจักร	การเพิ่มสิทธิพิเศษเรื่องกล้วย (Increase margin of preferences of bananas)	L / 1749
7.	สหรัฐอเมริกา	จาไมกา	การกำหนดสิทธิพิเศษ (Margin of preferences)	BISD 125/65
8.	อิสราเอล	สหราชอาณาจักร	ข้อจำกัดการนำเข้าสิ่งทอจำพวกฝ้าย (Import restrictions on cotton textiles)	BISD 205/237
9.	บราซิล	ประชาคมเศรษฐกิจ ร่วมยุโรป	การจ่ายเงินคืนในสินค้าส่งออกประเภทน้ำตาล (Refunds on exports of sugar)	BISD 275/69 และ 265/290
10.	ชิลี	ประชาคมเศรษฐกิจ ร่วมยุโรป	ข้อจำกัดในการนำเข้าสินค้าจำพวกแอปเปิ้ลจากชิลี (Restrictions on imports of apples from Chile)	BISD 275/98

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
11.	บราซิล	สเปน	ข้อปฏิบัติในการกำหนดภาษีศุลกากร ในสินค้าประเภทกาแฟดิบ (Tariff treatment of un-roasted coffee)	BISD 285/120
12.	นิคารากัว	สหรัฐอเมริกา	การนำเข้าน้ำตาลจากนิคารากัว (Imports of sugar from Nicaragua)	BISD 315/67
13.	เซาท์แอฟริกา	แคนาดา	มาตรการซึ่งส่งผลกระทบต่อการขาย เหรียญทองคำ (Measures affecting the sale of gold coins)	L / 5863
14.	นิคารากัว	สหรัฐอเมริกา	มาตรการทางการค้าที่ส่งผลกระทบต่อ ประเทศนิคารากัว (Trade measures affecting Nicaragua)	L / 6053
15.	เม็กซิโก	สหรัฐอเมริกา	การจัดเก็บภาษีปิโตรเลียมและสาร ประกอบนำเข้าบางชนิด (Taxes on petroleum and certain imported substances)	BISD 34S/136
16.	ออสเตรเลีย	เกาหลี	ข้อจำกัดในการนำเข้าเนื้อ (Restrictions on imports beef)	BISD 36S/202
17.	สหรัฐอเมริกา	เกาหลี	ข้อจำกัดในการนำเข้าเนื้อ (Restrictions on imports beef)	BISD 36S/268
18.	นิวซีแลนด์	เกาหลี	ข้อจำกัดในการนำเข้าเนื้อ (Restrictions on imports beef)	BISD 36S/234
19.	สหรัฐอเมริกา	ไทย	ข้อจำกัดในการนำเข้าและการจัดเก็บ ภาษีภายในประเทศเกี่ยวกับบุหรี่ (Restrictions on importation of and internal taxes on cigarettes)	BISD 37S/200
20.	บราซิล	สหรัฐอเมริกา	การเลือกปฏิบัติต่อสินค้าประเภทรอง เท้าที่ไม่ใช่ยางจากบราซิล (Denial of most-favoured-nation treatment as to non-rubber footwear from Brazil)	BISD 39S/128

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
21.	เม็กซิโก	สหรัฐอเมริกา	ข้อจำกัดการนำเข้าปลาทูน่า (Restrictions on imports of tuna)	BISD 39S/155
22.	โคลัมเบีย, คอสตาริกา, กัวเตมาลา, นิคารากัว, เวเนซุเอลา	ประชาคมเศรษฐกิจ ร่วมยุโรป	กฎเกณฑ์การนำเข้าของสมาชิก สำหรับสินค้าจำพวกกล้วย (Member states' import regimes for bananas)	DS 32/R
23	โคลัมเบีย, คอสตาริกา, กัวเตมาลา, นิคารากัว, เวเนซุเอลา	ประชาคมเศรษฐกิจ ร่วมยุโรป	กฎเกณฑ์การนำเข้ากล้วย (Import regime for bananas)	DS 38/R
24.	ชิลี	ประชาคมเศรษฐกิจ ร่วมยุโรป	ข้อจำกัดในการนำเข้าแอปเปิ้ล (Restrictions on imports of apples)	DS 39/R
25.	อาเจนตินา, บราซิล, ชิลี, โคลัมเบีย, เอลซัล วาดอร์, กัวเตมาลา, ไทย, เวเนซุเอลา, ซิมบับเว	สหรัฐอเมริกา	มาตรการที่ส่งผลกระทบต่อการนำ เข้าและการขายภายในประเทศของ สินค้าประเภทยาสูบ (Measures affecting the importation and internal sale of tobacco)	DS 44/R
26.	บราซิล	สหรัฐอเมริกา	มาตรการตอบโต้ทางภาษีต่อผลิต ภัณฑ์รองเท้าที่ไม่ใช่ยางจาก ประเทศบราซิล (Countervailing duties on non-rubber footwear from Brazil)	SCM/94
27.	เม็กซิโก	สหรัฐอเมริกา	ภาษีการทุ่มตลาดในสหรัฐอเมริกาที่ มีต่อปูนซีเมนต์ที่นำเข้ามาจาก ประเทศเม็กซิโก (Anti-dumping duties in the united States on gray portland cement clinker imported from Mexico)	ADP/82
28.	สหรัฐอเมริกา	เกาหลี	ภาษีการทุ่มตลาดต่อการนำเข้าพอลิ อะเซทัลเรซินจากสหรัฐอเมริกา (Anti-dumping duties on imports of polyacetal resins from the United States)	BISD40S/ 205

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
29.	ประชาคมเศรษฐกิจ ร่วมยุโรป	บราซิล	การดำเนินการการตอบโต้ทางภาษีที่ เกี่ยวข้องกับกรนำเข้านมผงจาก ประชาคมยุโรป (Countervailing duty proceeding concerning imports of milk powder from the European Community)	SCM/179
30.	บราซิล	ประชาคมเศรษฐกิจ ร่วมยุโรป	ภาษีการทุ่มตลาดต่อสินค้านำเข้า ฝ้ายทอจากบราซิล (Anti-dumping duties on cotton yarn from Brazil)	ADP/137
31.	เวเนซุเอลา	สหรัฐอเมริกา	มาตรฐานสำหรับน้ำมันแกโซลีนชนิด สูตรผสมใหม่และสูตรเดิม (Standards for reformulated and conventional gasoline)	WT/DS2
32.	บราซิล	สหรัฐอเมริกา	มาตรฐานสำหรับน้ำมันแกโซลีนชนิด สูตรผสมใหม่และสูตรเดิม (Standards for reformulated and conventional gasoline)	WT/DS4
33.	อินเดีย	สหรัฐอเมริกา	มาตรการที่ส่งผลกระทบต่อกรนำ เข้าเสื้อเชิ้ตและเสื้อสตรีที่ทอจากขน สัตว์ (Measure affecting imports of woven wool shirts and blouses)	WT/DS22
34.	เอวาดอร์, กัวเตมาลา, ฮอนดูรัส, เม็กซิโก	ประชาคมยุโรป	กฎเกณฑ์สำหรับการนำเข้า, การขาย และการจำหน่ายกล้วย (Regime for the importation sale and distribution of bananas)	WT/DS27
35.	สหรัฐอเมริกา	อินเดีย	การคุ้มครองสิทธิบัตรสำหรับผลิต ภัณฑ์เภสัชกรรมและเคมีภัณฑ์การ เกษตร (Patent protection for pharmaceutical and agricultural chemical products)	WT/DS50

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
36.	สหรัฐอเมริกา	อาร์เจนตินา	มาตรการที่ส่งผลกระทบต่อการนำเข้ารองเท้า, สิ่งทอ, เครื่องแต่งกาย เครื่องประดับและสินค้าอื่นๆ (Certain measures affecting imports of footwear, textiles, apparel and other items)	WT/DS56
37.	สหรัฐอเมริกา	อินโดนีเซีย	มาตรการที่ส่งผลกระทบต่ออุตสาหกรรมรถยนต์ (Certain measures affecting the automobile industry)	WT/DS54, 55,59 และ 64
38.	ประชาคมยุโรป	อินเดีย	การคุ้มครองสิทธิบัตรสำหรับผลิตภัณฑ์ทางเภสัชกรรมและเคมีภัณฑ์เกษตร (Patent protection , for pharmaceutical and agricultural chemical products)	WT/DS79/1
39.	อินเดีย, ไทย, มาเลเซีย, ปากีสถาน	สหรัฐอเมริกา	การห้ามการนำเข้ากุ้งและผลิตภัณฑ์กุ้งบางชนิด (Import prohibition of certain shimp and shimp products)	WT/DS58
40.	สหรัฐอเมริกา	อินเดีย	การจำกัดปริมาณการนำเข้าผลิตภัณฑ์การเกษตร, สิ่งทอและสินค้าอุตสาหกรรม (Quantitative restrictions on imports of agricultural, textile and industrial products)	WT/DS90/1
41.	เกาหลี	สหรัฐอเมริกา	ภาษีการทุ่มตลาดต่อ DRAMS ที่มีความจำ 1 เมกะบิตหรือมากกว่าจากประเทศเกาหลี [Anti-dumping on Dynamic Random Access Memory Semiconductors (DRAMS) of one Megabit or above from Korea]	WT/DS99/1

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
42	แคนาดา	บราซิล	การจัดการด้านการเงินในการส่งออกเครื่องบิน (Export financing programme for aircraft)	WT/DS46
43.	ประชาคมยุโรป	ชิลี	ภาษีเครื่องดื่มแอลกอฮอล์ (Taxes on alcoholic beverages)	WT/DS87/1 และ WT/DS110/1
44.	ประชาคมยุโรป	เกาหลี	มาตรการป้องกันการนำเข้าผลิตภัณฑ์อาหารบางประเภท (Definitive safeguard measure on imports of certain dairy products)	WT/DS98/1
45.	สหรัฐอเมริกา	เม็กซิโก	การตรวจสอบเพื่อป้องกันการทุ่มตลาดของน้ำตาลไซรัปจากข้าวโพดที่มีฟรุคโตสสูงจากสหรัฐอเมริกา (Anti-dumping investigation of high-fructose corn syrup (HFCS) from the United States)	WT/DS132/1
46.	สหรัฐอเมริกา	เกาหลี	มาตรการที่ส่งผลกระทบต่อการจัด การของรัฐบาล (Measures affecting government procurement)	WT/DS163/1
47.	สหรัฐอเมริกา	เกาหลี	มาตรการซึ่งส่งผลกระทบต่อ การนำเข้าเนื้อสด, เนื้อแช่เย็นและเนื้อแช่แข็ง (Measures affecting imports of fresh, chilled and frozen beef)	WT/DS161/1
48.	ออสเตรเลีย	เกาหลี	มาตรการซึ่งส่งผลกระทบต่อ การนำเข้าเนื้อสด, เนื้อแช่เย็นและเนื้อแช่แข็ง (Measures affecting imports of fresh, chilled and frozen beef)	WT/DS169/1
49.	โปแลนด์	ไทย	ภาษีการทุ่มตลาดต่อเหล็กหรือเหล็กกล้าลักษณะต่างๆจากโปแลนด์ (Anti-dumping duties on angles, shapes and sections of iron or non-alloy steel, H-beam from Poland)	WT/DS122/1

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
50	ประชาคมยุโรป	อาร์เจนตินา	มาตรการเกี่ยวกับการส่งออกผลิตภัณฑ์หนังวัวและการนำเข้าผลิตภัณฑ์เครื่องหนังสำเร็จรูป (Measures on the export of bovine hides and the import of finished leather)	WT/DS155
51.	สหรัฐอเมริกา	อาร์เจนตินา	มาตรการซึ่งส่งผลกระทบต่อการนำเข้ารองเท้า (Measures affecting imports of footwear)	WT/DS164/1
52.	เกาหลี	สหรัฐอเมริกา	มาตรการการทุ่มตลาดเกี่ยวกับแผ่นเหล็กกล้าปลอดสนิมชนิดเป็นวงและแผ่นเหล็กกล้าชนิดแผ่นบางและชนิดแผ่นแบนยาวจากประเทศเกาหลี (Anti-dumping measures on stainless steel plate in coil and stainless steel sheet and strip from Korea)	WT/DS179
53.	สหรัฐอเมริกา	อินเดีย	มาตรการที่สัมพันธ์กับการค้าและการลงทุนในภาคเครื่องยนต์ขับเคลื่อนด้วยล้อ (Measures relating to trade and investment in the motor vehicle sector)	WT/DS175/1
54.	เกาหลี	สหรัฐอเมริกา	มาตรการป้องกันที่เกี่ยวกับการนำเข้าท่อจากประเทศเกาหลี (Definitive safeguard measures on imports of circular welded carbon quality line pipe from Korea)	WT/DS202/1

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
55.	บราซิล	ประชาคมยุโรป	มาตรการซึ่งส่งผลกระทบต่อกาแฟชนิดละลายได้ (Measures affecting soluble coffee)	WT/DS209/1
56.	อินเดีย	สหรัฐอเมริกา	มาตรการการกีดกันการค้าและการตอบโต้เกี่ยวกับแผ่นเหล็กจากอินเดีย (Anti-dumping and countervailing measures on steel plate from India)	WT/DS206/1
57.	สหรัฐอเมริกา	เม็กซิโก	มาตรการที่ส่งผลกระทบต่อค่าบริการโทรคมนาคม (Measures affecting telecommunications services)	WT/DS204/1
58.	สหรัฐอเมริกา	เม็กซิโก	มาตรการที่ส่งผลกระทบต่อการค้าสุกรมีชีวิต (Measures affecting trade in live swine)	WT/DS203/1
59.	สหรัฐอเมริกา	บราซิล	มาตรการที่ส่งผลกระทบต่อคุ้มครองสิทธิบัตร (Measures affecting patent protection)	WT/DS199/1
60.	สหรัฐอเมริกา	บราซิล	มาตรการที่เกี่ยวข้องกับมูลค่าการนำเข้าต่ำสุด (Measures on minimum import prices)	WT/DS197/1
61.	สหรัฐอเมริกา	อาเจนตินา	มาตรการที่ส่งผลกระทบต่อคุ้มครองสิทธิบัตรและข้อมูลจากการทดสอบ (Certain measures on protection of patents and test data)	WT/DS196/1

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
62.	สหรัฐอเมริกา	ฟิลิปปินส์	มาตรการที่ส่งผลกระทบต่อการค้าและการลงทุนในภาครถยนต์ขับเคลื่อนด้วยล้อ (Measures affecting trade and investment in the motor vehicle sector)	WT/DS195/1
63.	ประชาคมยุโรป	ชิลี	มาตรการที่ส่งผลกระทบต่อการค้าผ่านและการนำเข้าปลาตาบ (Measures affecting the transit and importation of swordfish)	WT/DS193/1
64.	ประชาคมยุโรป	อาเจนตินา	ขอบเขตมาตรการการทุ่มตลาดแผ่นกระดาษอัดนำเข้าจากเยอรมันและขอบเขตมาตรการการทุ่มตลาดเกี่ยวกับการนำเข้ากระเบื้องเซรามิกปูพื้นจากอิตาลี (Definitive anti-dumping measures on carton-board imports from Germany and definitive anti-dumping measures on imports of ceramic floor tiles from Italy)	WT/DS189/1
65.	ประชาคมยุโรป	บราซิล	มาตรการเกี่ยวกับการขออนุญาตนำเข้าและมูลค่าการนำเข้าต่ำสุด (Measures on import licensing and minimum import prices)	DS183/1
66.	สหรัฐอเมริกา	อาเจนตินา	การคุ้มครองสิทธิบัตรสำหรับผลิตภัณฑ์การเภสัชกรรมและการคุ้มครองข้อมูลการทดสอบสำหรับสารเคมีทางการเกษตร (Patent protection for pharmaceuticals and test data protection for Agricultural chemicals)	WT/DS171/1

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
67.	กัวเตมาลา, ฮอนดูรัส, เม็กซิโก, ปานามา	ประชาคมยุโรป	กฎเกณฑ์สำหรับการนำเข้า, การขาย และการจำหน่ายกล้วย II (Regime for the importation, sale and distribution of bananas II)	WT/DS158/1
68.	ประชาคมยุโรป	อาเจนตินา	มาตรการการทุ่มตลาดเกี่ยวกับการนำเข้าสว่านจากอิตาลี (Anti-dumping measures of drill bits from Italy)	WT/DS157/1
69.	บราซิล	ประชาคมยุโรป	มาตรการที่ส่งผลกระทบต่อการใช้ปฏิบัติที่เป็นพิเศษและแตกต่างเกี่ยวกับกาแฟ (Measures affecting differential and favourable treatment of coffee)	WT/DS154/1
70.	ประชาคมยุโรป	อินเดีย	มาตรการที่ส่งผลกระทบต่อพิธีการอัตราภาษีศุลกากร (Measures affecting custom duties)	WT/DS150/1
71.	ประชาคมยุโรป	อินเดีย	ข้อจำกัดการนำเข้า (Import restrictions)	WT/DS149
72.	ประชาคมยุโรป	อินเดีย	มาตรการที่ส่งผลกระทบต่อภาครถยนต์ (Measures affecting the automotive sector)	WT/DS146/1
73.	ประชาคมยุโรป	อาเจนตินา	การตอบโต้ทางภาษีเกี่ยวกับการนำเข้าแป้งข้าวเหนียวจากประชาคมเศรษฐกิจยุโรป	WT/DS145/1
74.	อินเดีย	ประชาคมยุโรป	การตรวจสอบเพื่อป้องกันการทุ่มตลาดเกี่ยวกับเส้นใยฝ้ายที่ไม่ได้ฟอกจากอินเดีย (Anti-dumping investigations regarding unbleached cotton fabrics from India)	WT/DS140/1

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
75.	อินเดีย	ประชาคมยุโรป	มาตรการที่ส่งผลกระทบต่อภาษีนำเข้าข้าว (Measures affecting import duties on rice)	DS134
76.	ประชาคมยุโรป	อินเดีย	มาตรการที่ส่งผลต่อการส่งออกสินค้าบางชนิด (Measures affecting export of certain commodities)	WT/DS120/1
77.	ประชาคมยุโรป	บราซิล	มาตรการที่มีผลต่อเงื่อนไขการจ่ายเงินสำหรับการนำเข้า (Measures affecting payment terms for imports)	WT/DS116/1
78.	อาเจนตินา	สหรัฐอเมริกา	โควตาอัตราภาษีศุลกากรสำหรับการนำเข้าถั่วลิสง (Tariff rate quota for imports of groundnuts)	WT/DS111/1
79.	สหรัฐอเมริกา	ชิลี	ภาษีเครื่องดื่มแอลกอฮอล์ (Taxes on alcoholic beverages)	WT/DS109/1
80.	ประชาคมยุโรป	ปากีสถาน	มาตรการส่งออกที่มีผลต่อเครื่องหนังและผิว (Export measures affecting hides and skins)	WT/DS107/1
81.	ปานามา	ประชาคมยุโรป	กฎเกณฑ์การนำเข้า, การขายและการจำหน่ายกล้วย (Regime for the importation, sale and distribution of bananas)	WT/DS105/1
82.	สหรัฐอเมริกา	เม็กซิโก	การตรวจสอบเพื่อป้องกันการทุ่มตลาดน้ำตาลไซรัปจากข้าวโพดที่มีฟรุคโตสสูงจากสหรัฐอเมริกา (Anti-dumping investigation of high-fructose corn syrup (HFCS) from the United States)	WT/DS101/1

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
83.	ชิลี	สหรัฐอเมริกา	การตรวจสอบการตอบโต้ทางภาษี เกี่ยวกับการนำเข้าปลาซัลมอนจาก ชิลี (Countervailing duty investigation of imports of salmon from Chile)	WT/DS97/1
84.	โคลัมเบีย	สหรัฐอเมริกา	มาตรการป้องกันเพื่อต่อต้านการนำเข้า broom and corn brooms (Safeguard measure against imports of broom and corn brooms)	WT/DS78/1
85.	บราซิล	แคนาดา	มาตรการที่มีผลต่อการส่งออกเครื่อง บินพลเรือน (Measures affecting the export of civilian aircraft)	WT/DS71
86.	ฟิลิปปินส์	สหรัฐอเมริกา	การห้ามนำเข้ากุ้งและผลิตภัณฑ์กุ้ง (Import prohibition of certain shrimp and shrimp products)	WT/DS61
87.	ประชาคมยุโรป	เม็กซิโก	การตีราคาศุลกากรของสินค้านำเข้า (Custom valuation of imports)	WT/DS53
88.	ญี่ปุ่น	บราซิล	มาตรการการลงทุนเกี่ยวกับเครื่อง ยนต์ (Certain automotive investment measures)	WT/DS51
89.	สหรัฐอเมริกา	บราซิล	มาตรการที่ส่งผลต่อการค้าและการ ลงทุนในภาคเครื่องยนต์ (Measures affecting trade and investment in the automotive sector)	WT/DS52 WT/DS65 และ WT/DS81/1
90.	สหรัฐอเมริกา	เกาหลี	มาตรการที่เกี่ยวข้องกับการทดสอบ และการตรวจตราผลิตภัณฑ์เกษตร (Measures concerning the testing and inspection of agricultural products)	WT/DS 3

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
91.	สหรัฐอเมริกา	เกาหลี	มาตรการที่เกี่ยวข้องกับการตรวจตราผลิตภัณฑ์เกษตร (Measures concerning inspection of agricultural products)	WT/DS41
92.	สหรัฐอเมริกา	อินเดีย	การจำกัดปริมาณการนำเข้าผลิตภัณฑ์เกษตร, สิ่งทอและอุตสาหกรรม	WT/DS90/1
93.	แคนาดา	บราซิล	การจัดการด้านการเงินในการส่งออกเครื่องบิน (Export financing programme for aircraft)	WT/DS46
94.	บราซิล	แคนาดา	มาตรการที่ส่งผลกระทบต่อการส่งออกเครื่องบินพลเรือน (Measures affecting the export of civilian aircraft)	WT/DS70
95.	เกาหลี	สหรัฐอเมริกา	ภาษีการทุ่มตลาดที่เกี่ยวข้องกับ DRAMS ที่มีหน่วยความจำ 1 เมกะบิตหรือมากกว่าจากเกาหลี (Anti-dumping duty on dynamic random access memory semiconductors (DRAMS) of one Megabit or above from Korea)	WT/DS97/1
96.	ประชาคมยุโรป	อาเจนตินา	มาตรการที่ส่งผลต่อสิ่งทอและเสื้อผ้า (Measures affecting textiles and clothing)	WT/DS77/1
97.	เกาหลี	สหรัฐอเมริกา	ภาษีทุ่มตลาดในการนำเข้าเครื่องรับโทรทัศน์สีจากประเทศเกาหลี (Anti-dumping duties on imports of colour television receivers from Korea)	WT/DS89/1
98.	ออสเตรเลีย	อินเดีย	การจำกัดปริมาณการนำเข้าผลิตภัณฑ์ทางการเกษตร, สิ่งทอและสินค้าอุตสาหกรรม (Quantitative restriction on Imports of agricultural, Textile and industrial products)	WT/DS91/1

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
99.	แคนาดา	อินเดีย	การจำกัดปริมาณการนำเข้าผลิต ภัณฑ์ทางการเกษตร สิ่งทอและสิน ค้าอุตสาหกรรม (Quantitative restriction on imports of agricultural, textile and industrial products)	WT/DS92/1
100.	สวิตเซอร์แลนด์	อินเดีย	การจำกัดปริมาณการนำเข้าผลิต ภัณฑ์ทางการเกษตร สิ่งทอและสิน ค้าอุตสาหกรรม (Quantitative restriction on imports of agricultural, textile and industrial products)	WT/DS94/1
101.	ประชาคมยุโรป	อินเดีย	การจำกัดปริมาณการนำเข้าผลิต ภัณฑ์ทางการเกษตร สิ่งทอและสิน ค้าอุตสาหกรรม (Quantitative restriction on imports of agricultural, textile and industrial products)	WT/DS96/1
102.	นิวซีแลนด์	อินเดีย	การจำกัดปริมาณการนำเข้าผลิต ภัณฑ์ทางการเกษตร สิ่งทอและสิน ค้าอุตสาหกรรม (Quantitative restriction on imports of agricultural, textile and industrial products)	WT/DS93/1
103.	สหรัฐอเมริกา	ฟิลิปปินส์	มาตรการที่ส่งผลกระทบต่อหมูและ สัตว์ปีก (Measures affecting pork and poultry)	WT/DS74/1 และ WT/DS102/1
104	ประชาคมยุโรป	เกาหลี	กฎหมาย, ข้อบังคับและการปฏิบัติใน ภาคโทรคมนาคม (Laws, regulations and practices in the telecommunications sector)	WT/DS40

ลำดับ	ผู้ร้องเรียน	ผู้ถูกร้องเรียน	หัวข้อพิพาท	อ้างอิง
105.	สหรัฐอเมริกา	ปากีสถาน	การคุ้มครองสิทธิบัตรสำหรับผลิตภัณฑ์ทางเภสัชกรรมและเคมีภัณฑ์การเกษตร (Patent protection for pharmaceutical and agricultural chemical products)	WT/DS36
106.	เม็กซิโก	สหรัฐอเมริกา	การตรวจสอบเพื่อป้องกันการทุ่มตลาดในเรื่องของการนำเข้ามะเขือเทศสดและมะเขือเทศแช่เย็นจากเม็กซิโก (Anti-dumping investigation regarding imports of fresh or chilled tomatoes from Mexico)	WT/DS49
107.	อินเดีย	ไปแลนด์	กฎเกณฑ์การนำเข้าสำหรับรถยนต์ (Import regime for automobiles)	WT/DS19
108.	เปรู	ประชาคมยุโรป	รายละเอียดทางการค้าของหอย (Trade description of scallops)	WT/DS12
109.	ชิลี	ประชาคมยุโรป	รายละเอียดทางการค้าของหอย (Trade description of scallops)	WT/DS14
110.	อินเดีย	สหรัฐอเมริกา	มาตรการที่ส่งผลกระทบต่อการนำเข้าเสื้อโค้ตสตรีขนสัตว์ (Measures affecting imports of women's and girls' wool coat)	WT/DS32
111.	แคนาดา	เกาหลี	มาตรการที่เกี่ยวข้องกับน้ำบรรจุขวด (Measures concerning bottled water)	WT/DS20
112.	ไทย	ประชาคมยุโรป	ภาษีการนำเข้าข้าว (Duties on imports of rice)	WT/DS17
113.	สหรัฐอเมริกา	เกาหลี	มาตรการที่เกี่ยวข้องกับผลิตภัณฑ์การดำรงชีพ (Measures concerning the self-life products)	WT/DS5

ภาคผนวก 3



Article XXII : Consultations

1. Each contracting party shall accord sympathetic consideration to and shall afford adequate opportunity for consultation regarding such representations as may be made by another contracting party with respect to and matter affecting the operation of this Agreement.
2. The CONTRACTING PARTIES may, at the request of a contracting party, consult with any contracting party or parties in respect of any matter for which it has not been possible to find a satisfactory solution through consultation under paragraph 1.

Article XXIII : Nullification or Impairment

1. If any contracting party should consider that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired or that the attainment of any objective of the Agreement is being impeded as the result of
 - (a) the failure of another contracting party to carry out its obligations under the Agreement, or
 - (b) the application by another contracting party of any measure, whether or not it conflicts with the provisions of this Agreement, or
 - (c) the existence of any other situation,the contracting party may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other contracting party or parties which it considers to be concerned. Any contracting party thus approached shall give sympathetic consideration to the representations or proposals made to it.

2. if no satisfactory adjustment is effected between contracting parties concerned within a reasonable time, or if the difficulty is of the type described in paragraph 1(c) of this Article, the matter may be referred to the CONTRACTING PARTIES. The CONTRACTING PARTIES shall promptly investigate any matter so referred to them and shall make appropriate recommendations to the contracting parties which they consider to be concerned, or give a ruling on the matter, as appropriate. The CONTRACTING PARTIES may consult with contracting parties with the Economic and Social Council of the United Nations and with any appropriate inter-governmental organization in case where they consider such consultation necessary. If the CONTRACTING PARTIES consider that circumstances are serious enough to justify such action, they may authorize a contracting party or parties of such concessions or other obligations under this Agreement as they determine to be appropriate in the circumstances. If the application to any other contracting party or party of any concession or other obligation is in fact suspended, that contracting party shall then be free, not later than 60 days after such action is taken, to give written notice to the Executive Secretary to the CONTRACTING PARTIES of its intention to withdraw from this Agreement and such withdrawal shall take effect upon the sixtieth day following the day on which such notice is received by him.

ภาคผนวก 4

GATT, Article XXXVI : Principles and Objectives

1. The contracting parties,

(a) recalling that the basic objective of this Agreement include the raising of standards of living and the progressive development of the economies of all contracting, and considering that the attainment of these objectives is particularly urgent for less-developed contracting parties;

(b) considering the export earnings of the less-developed contracting parties can play a vital part in their economic development and that the extent of this contribution depends on the prices paid by the less-developed contracting parties for essential import, the volume of their exports, and the prices received for these exports;

(c) noting, that there is a wide gap between standards of living in less-developed countries and in other countries;

(d) recognizing that individual and joint action is essential to further the development of the economies of less-developed contracting parties and to bring about a rapid advance in the standards of living in these countries;

(e) recognizing that international trade as a means of achieving economic and social advancement should be governed by such rules and procedures and measures in conformity with such rules and procedures-as are consistent with the objectives set forth in this Article;

(f) noting that the CONTRACTING PARTIES may enable less-developed contracting parties to use special measures to promote their trade and development; agree as follows.

2. There is need for a rapid and sustained expansion of the export earnings of the less-developed contracting parties.

3. There is need for positive efforts designed to ensure that less-developed contracting parties secure a share in the growth in inter national trade commensurate with the needs of their economic development .

4. Given the continued dependence of many less-developed contracting parties on the exportation of a limited range of primary products, there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products, and wherever appropriate to devise measures designed to stabilize and improve conditions of world markets in these products, including in particular measures designed to attain stable, equitable and remunerative prices, thus permitting an expansion of world Trade and demand and a dynamic and steady growth of the real export earnings of these countries so as to provide them with expanding resources for their economic development.

5. The rapid expansion of the economies of the less-developed contracting parties will be facilitated by a diversification of the structure of their economies and the avoidance of and excessive dependence on the export of primary products. There is, therefore, need for increased access in the largest possible measure to markets under favourable conditions for processed and manufactured products currently or potentially of particular export interest to less-developed contracting parties.

6. Because of the chronic deficiency in the export proceeds and other foreign exchange earnings of less-developed contracting parties, there are important interrelationship between trade and financial assistance to development. There is, therefore, need for close and continuing collaboration between the CONTRACTING PARTIES and the international lending agencies so that they can contribute most effectively to alleviating the burdens these less-developed contracting parties assume in the interest of their economic development.

7. There is need for appropriate collaboration between the CONTRACTING PARTIES, other intergovernmental bodies and the organs and agencies of the United Nations system, whose activities relate to the trade and economic development of less-developed countries.

8. The developed contracting parties do not expect reciprocity for commitment made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties.

9. The adoption of measures to give effect to these principles and objectives shall be a matter of conscious and purposeful effort on the part of the contracting parties both individually and jointly.

GATT, Article XXXVII : Commitments

1. The developed contracting parties shall to the fullest extent possible that is, except when compelling reasons, which may include legal reasons, make it impossible-give effect to the following provisions:

(a) accord high priority to the reduction and elimination of barriers to products currently or potentially of particular export interest to less-developed contracting parties, including customs duties and other restrictions which differentiate unreasonably between such products in their primary and in their processed forms;

(b) refrain from introducing, or increasing the incidence of, customs duties or non-import barriers on products currently or potentially of particular export interest to less-developed contracting parties ; and

(c) (i) refrain from imposing new fiscal measures, and

(ii) in any adjustments of fiscal policy accord high priority to the reduction and elimination of fiscal measure. Which would hamper, or which hamper, significantly the growth of consumption of primary products, in raw or processed form, wholly or mainly produced in the territories of less-developed contracting parties, and which are applied specifically to those products.

2. (a) Whenever it is considered that effect is not being given to any of the provisions of subparagraph (a),(b) or (c) of paragraph 1, the matter shall be reported to the CONTRACTING PARTIES either by the contracting party not so giving effect to the relevant provisions or by any other interested contracting party

(b)(i) The CONTRACTING PARTIES shall, if requested so to do by any interested contracting party, and without prejudice to any bilateral consultations that may be undertaken, consult with the contracting party concerned and all interested contracting parties with respect to the matter with a view to reaching solutions satisfactory to all contracting parties concerned in order to further the objectives set forth in Article XXXVI. In the course of these consultations, the reasons given in cases where effect was not being given to the provisions of subparagraph (a),(b) or (c) of paragraph 1 shall be examined.

(ii) As the implementation of the provisions of subparagraph (a),(b) or (c) of paragraph 1 by individual contracting parties may in some cases be more readily achieved where action is taken jointly with other developed contracting parties, such consultation might, where appropriate, be directed towards this end.

(iii) The consultations by the CONTRACTING PARTIES might also, in appropriate cases, be directed towards agreement on joint action designed to further the objectives of this Agreement as envisaged in paragraph 1 of Article XXV.

3. The developed contracting parties shall :

(a) make every effort, in cases where a government directly or indirectly determines the resale price of products wholly or mainly produced in the territories of less-developed contracting parties, to maintain trade margins at equitable levels :

(b) give active consideration to the adoption of other measures designed to provide greater scope for the development of imports from less-developed contracting parties and collaborate in appropriate international action to this end ;

4. Less-developed contracting parties agree to take appropriate action in implementation of the provisions of Part IV for the benefit of the trade of other less-developed contracting parties, in so far as such action is consistent with their individual present and future development, financial and trade needs taking into account past trade developments as well as the trade interests of less-developed contracting parties as a whole.

5. In the implementation of the commitments set forth in paragraph 1 to 4 each contracting party shall afford to any other interested contracting party or contracting parties full and prompt opportunity for consultations under the normal procedures of this Agreement with respect to any matter or difficulty which may arise.

GATT, Article XXXVIII : Joint Action

1. The contracting parties shall collaborate jointly, with the framework of this Agreement and elsewhere, as appropriate, to further the Objectives set forth in Article XXXVI.

2. In particular, the CONTRACTING PARTIES shall :

(a) where appropriate, take action, including action through international arrangement, to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less-developed contracting parties and to devise measures designed to stabilize and improve conditions of world markets in these products including measures designed to attain stable, equitable and remunerative prices for exports of such products.

(b) seek appropriate collaboration in matters of trade and development policy with the United Nations and its organs and agencies, including any institutions that may be created on the basis of recommendations by the United Nations Conference on Trade and Development ;

(c) collaborate in analysing the development plans and policies of individual less-developed contracting parties and in examining trade aid relationships with a view to devising concrete measures to promote the development of export potential and to facilitate access to export markets for the products of the industries thus developed and, in this connection, seek appropriate collaboration with governments and international organizations, and in particular with organizations having competence in relation to financial assistance for economic developments, in systematic studies of trade and aid relationships in individual less-developed contracting parties aimed at obtaining a clear analysis of export potential, market prospects and any further action that may be required;

(d) keep under continuous review the development of world trade with special reference to the rate of growth of the trade of less-developed contracting parties and make such recommendations to contracting parties as may, in the circumstances, be deemed appropriate ;

(e) collaborate in seeking feasible methods to expand trade for the purpose of economic development, through international harmonization and adjustment of national policies and regulations, through technical and commercial standards affecting production, transportation and marketing and through export promotion by the establishment of facilities for the increased flow of trade information and the development of market research ; and

(f) establish such institutional arrangements as may be necessary to further the objectives set forth in Article XXXVI and to give effect to the provision of this Part.

ภาคผนวก 5

UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES

Members hereby agree as follows:

Article 1

Coverage and Application

1. The rules and procedures of this Understanding shall apply to disputes brought pursuant to the consultation and dispute settlement provisions of the agreements listed in Appendix 1 to this Understanding (referred to in this Understanding as the "covered agreements"). The rules and procedures of this Understanding shall also apply to consultations and the settlement of disputes between Members concerning their rights and obligations under the provisions of the Agreement Establishing the World Trade Organization (referred to in this Understanding as the "WTO Agreement") and of this Understanding taken in isolation or in combination with any other covered agreement.

2. The rules and procedures of this Understanding shall apply subject to such special or additional rules and procedures on dispute settlement contained in the covered agreements as are identified in Appendix 2 to this Understanding. To the extent that there is a difference between the rules and procedures of this Understanding and the special or additional rules and procedures set forth in Appendix 2, the special or additional rules and procedures in Appendix 2 shall prevail. In disputes involving rules and procedures under more than one covered agreement, if there is a conflict between special or additional rules and procedures of such agreements under review, and where the parties to the dispute cannot agree on rules and procedures within 20 days of the establishment of the panel, the Chairman of the Dispute Settlement Body provided for in paragraph 1 of Article 2 (referred to in this Understanding as the "DSB"), in consultation with the parties to the dispute, shall determine the rules and procedures to be followed within 10 days after a request by either Member. The Chairman shall be guided by the principle that special or additional rules and procedures should be used where possible, and the rules and procedures set out in this Understanding should be used to the extent necessary to avoid conflict.

Article 2

Administration

1. The Dispute Settlement Body is hereby established to administer these rules and procedures and, except as otherwise provided in a covered agreement, the consultation and dispute settlement provisions of the covered agreements. Accordingly, the DSB shall have the authority to establish panels, adopt panel and Appellate Body reports, maintain surveillance of implementation of rulings and recommendations, and authorize suspension of concessions and other obligations under the covered agreements. With respect to disputes arising under a covered agreement which is a Plurilateral Trade Agreement, the term "Member" as used herein shall refer only to those Members that are parties to the relevant Plurilateral Trade Agreement. Where the DSB administers the dispute settlement provisions of a Plurilateral Trade Agreement, only those Members that are parties to that Agreement may participate in decisions or actions taken by the DSB with respect to that dispute.
2. The DSB shall inform the relevant WTO Councils and Committees of any developments in disputes related to provisions of the respective covered agreements.
3. The DSB shall meet as often as necessary to carry out its functions within the time-frames provided in this Understanding.
4. Where the rules and procedures of this Understanding provide for the DSB to take a decision, it shall do so by consensus.¹

Article 3

General Provisions

1. Members affirm their adherence to the principles for the management of disputes heretofore applied under Articles XXII and XXIII of GATT 1947, and the rules and procedures as further elaborated and modified herein.
2. The dispute settlement system of the WTO is a central element in providing security and predictability to the multilateral trading system. The Members recognize that it serves to preserve the rights and obligations of Members under the covered agreements, and to clarify the existing provisions of those agreements in accordance with customary rules of interpretation of public international law. Recommendations and rulings of the DSB cannot add to or diminish the rights and obligations provided in the covered agreements.

¹ The DSB shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting of the DSB when the decision is taken, formally objects to the proposed decision.

3. The prompt settlement of situations in which a Member considers that any benefits accruing to it directly or indirectly under the covered agreements are being impaired by measures taken by another Member is essential to the effective functioning of the WTO and the maintenance of a proper balance between the rights and obligations of Members.

4. Recommendations or rulings made by the DSB shall be aimed at achieving a satisfactory settlement of the matter in accordance with the rights and obligations under this Understanding and under the covered agreements.

5. All solutions to matters formally raised under the consultation and dispute settlement provisions of the covered agreements, including arbitration awards, shall be consistent with those agreements and shall not nullify or impair benefits accruing to any Member under those agreements, nor impede the attainment of any objective of those agreements.

6. Mutually agreed solutions to matters formally raised under the consultation and dispute settlement provisions of the covered agreements shall be notified to the DSB and the relevant Councils and Committees, where any Member may raise any point relating thereto.

7. Before bringing a case, a Member shall exercise its judgement as to whether action under these procedures would be fruitful. The aim of the dispute settlement mechanism is to secure a positive solution to a dispute. A solution mutually acceptable to the parties to a dispute and consistent with the covered agreements is clearly to be preferred. In the absence of a mutually agreed solution, the first objective of the dispute settlement mechanism is usually to secure the withdrawal of the measures concerned if these are found to be inconsistent with the provisions of any of the covered agreements. The provision of compensation should be resorted to only if the immediate withdrawal of the measure is impracticable and as a temporary measure pending the withdrawal of the measure which is inconsistent with a covered agreement. The last resort which this Understanding provides to the Member invoking the dispute settlement procedures is the possibility of suspending the application of concessions or other obligations under the covered agreements on a discriminatory basis vis-à-vis the other Member, subject to authorization by the DSB of such measures.

8. In cases where there is an infringement of the obligations assumed under a covered agreement, the action is considered *prima facie* to constitute a case of nullification or impairment. This means that there is normally a presumption that a breach of the rules has an adverse impact on other Members parties to that covered agreement, and in such cases, it shall be up to the Member against whom the complaint has been brought to rebut the charge.

9. The provisions of this Understanding are without prejudice to the rights of Members to seek authoritative interpretation of provisions of a covered agree-

ment through decision-making under the WTO Agreement or a covered agreement which is a Plurilateral Trade Agreement.

10. It is understood that requests for conciliation and the use of the dispute settlement procedures should not be intended or considered as contentious acts and that, if a dispute arises, all Members will engage in these procedures in good faith in an effort to resolve the dispute. It is also understood that complaints and counter-complaints in regard to distinct matters should not be linked.

11. This Understanding shall be applied only with respect to new requests for consultations under the consultation provisions of the covered agreements made on or after the date of entry into force of the WTO Agreement. With respect to disputes for which the request for consultations was made under GATT 1947 or under any other predecessor agreement to the covered agreements before the date of entry into force of the WTO Agreement, the relevant dispute settlement rules and procedures in effect immediately prior to the date of entry into force of the WTO Agreement shall continue to apply.²

12. Notwithstanding paragraph 11, if a complaint based on any of the covered agreements is brought by a developing country Member against a developed country Member, the complaining party shall have the right to invoke, as an alternative to the provisions contained in Articles 4, 5, 6 and 12 of this Understanding, the corresponding provisions of the Decision of 5 April 1966 (BISD 14S/18), except that where the Panel considers that the time-frame provided for in paragraph 7 of that Decision is insufficient to provide its report and with the agreement of the complaining party, that time-frame may be extended. To the extent that there is a difference between the rules and procedures of Articles 4, 5, 6 and 12 and the corresponding rules and procedures of the Decision, the latter shall prevail.

Article 4

Consultations

1. Members affirm their resolve to strengthen and improve the effectiveness of the consultation procedures employed by Members.
2. Each Member undertakes to accord sympathetic consideration² to and afford adequate opportunity for consultation regarding any representations made

² This paragraph shall also be applied to disputes on which panel reports have not been adopted or fully implemented.

by another Member concerning measures affecting the operation of any covered agreement taken within the territory of the former.³

3. If a request for consultations is made pursuant to a covered agreement, the Member to which the request is made shall, unless otherwise mutually agreed, reply to the request within 10 days after the date of its receipt and shall enter into consultations in good faith within a period of no more than 30 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution. If the Member does not respond within 10 days after the date of receipt of the request, or does not enter into consultations within a period of no more than 30 days, or a period otherwise mutually agreed, after the date of receipt of the request, then the Member that requested the holding of consultations may proceed directly to request the establishment of a panel.

4. All such requests for consultations shall be notified to the DSB and the relevant Councils and Committees by the Member which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.

5. In the course of consultations in accordance with the provisions of a covered agreement, before resorting to further action under this Understanding, Members should attempt to obtain satisfactory adjustment of the matter.

6. Consultations shall be confidential, and without prejudice to the rights of any Member in any further proceedings.

7. If the consultations fail to settle a dispute within 60 days after the date of receipt of the request for consultations, the complaining party may request the establishment of a panel. The complaining party may request a panel during the 60-day period if the consulting parties jointly consider that consultations have failed to settle the dispute.

8. In cases of urgency, including those which concern perishable goods, Members shall enter into consultations within a period of no more than 10 days after the date of receipt of the request. If the consultations have failed to settle the dispute within a period of 20 days after the date of receipt of the request, the complaining party may request the establishment of a panel.

9. In cases of urgency, including those which concern perishable goods, the parties to the dispute, panels and the Appellate Body shall make every effort to accelerate the proceedings to the greatest extent possible.

³ Where the provisions of any other covered agreement concerning measures taken by regional or local governments or authorities within the territory of a Member contain provisions different from the provisions of this paragraph, the provisions of such other covered agreement shall prevail.

10. During consultations Members should give special attention to the particular problems and interests of developing country Members.

11. Whenever a Member other than the consulting Members considers that it has a substantial trade interest in consultations being held pursuant to paragraph 1 of Article XXII of GATT 1994, paragraph 1 of Article XXII of GATS, or the corresponding provisions in other covered agreements⁴, such Member may notify the consulting Members and the DSB, within 10 days after the date of the circulation of the request for consultations under said Article, of its desire to be joined in the consultations. Such Member shall be joined in the consultations, provided that the Member to which the request for consultations was addressed agrees that the claim of substantial interest is well-founded. In that event they shall so inform the DSB. If the request to be joined in the consultations is not accepted, the applicant Member shall be free to request consultations under paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATT 1994, paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATS, or the corresponding provisions in other covered agreements.

Article 5

Good Offices, Conciliation and Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree.

2. Proceedings involving good offices, conciliation and mediation, and in particular positions taken by the parties to the dispute during these proceedings, shall be confidential, and without prejudice to the rights of either party in any further proceedings under these procedures.

3. Good offices, conciliation or mediation may be requested at any time by any party to a dispute. They may begin at any time and be terminated at any time. Once procedures for good offices, conciliation or mediation are terminated,

⁴ The corresponding consultation provisions in the covered agreements are listed hereunder:

Agreement on Agriculture, Article 19; Agreement on the Application of Sanitary and Phytosanitary Measures, paragraph 1 of Article 11; Agreement on Textiles and Clothing, paragraph 4 of Article 8; Agreement on Technical Barriers to Trade, paragraph 1 of Article 14; Agreement on Trade-Related Investment Measures, Article 8; Agreement on Implementation of Article VI of GATT 1994, paragraph 2 of Article 17; Agreement on Implementation of Article VII of GATT 1994, paragraph 2 of Article 19; Agreement on Preshipment Inspection, Article 7; Agreement on Rules of Origin, Article 7; Agreement on Import Licensing Procedures, Article 6; Agreement on Subsidies and Countervailing Measures, Article 30; Agreement on Safeguards, Article 14; Agreement on Trade-Related Aspects of Intellectual Property Rights, Article 64.1; and any corresponding consultation provisions in Plurilateral Trade Agreements as determined by the competent bodies of each Agreement and as notified to the DSB.

a complaining party may then proceed with a request for the establishment of a panel.

4. When good offices, conciliation or mediation are entered into within 60 days after the date of receipt of a request for consultations, the complaining party must allow a period of 60 days after the date of receipt of the request for consultations before requesting the establishment of a panel. The complaining party may request the establishment of a panel during the 60-day period if the parties to the dispute jointly consider that the good offices, conciliation or mediation process has failed to settle the dispute.

5. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the panel process proceeds.

6. The Director-General may, acting in an *ex officio* capacity, offer good offices, conciliation or mediation with the view to assisting Members to settle a dispute.

Article 6

Establishment of Panels

1. If the complaining party so requests, a panel shall be established at the latest at the DSB meeting following that at which the request first appears as an item on the DSB's agenda, unless at that meeting the DSB decides by consensus not to establish a panel.⁵

2. The request for the establishment of a panel shall be made in writing. It shall indicate whether consultations were held, identify the specific measures at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly. In case the applicant requests the establishment of a panel with other than standard terms of reference, the written request shall include the proposed text of special terms of reference.

Article 7

Terms of Reference of Panels

1. Panels shall have the following terms of reference unless the parties to the dispute agree otherwise within 20 days from the establishment of the panel:

"To examine, in the light of the relevant provisions in (name of the covered agreement(s) cited by the parties to the dispute), the matter referred to the DSB by (name of party) in document ... and to make such

⁵ If the complaining party so requests, a meeting of the DSB shall be convened for this purpose within 15 days of the request, provided that at least 10 days' advance notice of the meeting is given.

findings as will assist the DSB in making the recommendations or in giving the rulings provided for in that/those agreement(s)."

2. Panels shall address the relevant provisions in any covered agreement or agreements cited by the parties to the dispute.
3. In establishing a panel, the DSB may authorize its Chairman to draw up the terms of reference of the panel in consultation with the parties to the dispute, subject to the provisions of paragraph 1. The terms of reference thus drawn up shall be circulated to all Members. If other than standard terms of reference are agreed upon, any Member may raise any point relating thereto in the DSB.

Article 8

Composition of Panels

1. Panels shall be composed of well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member.
2. Panel members should be selected with a view to ensuring the independence of the members, a sufficiently diverse background and a wide spectrum of experience.
3. Citizens of Members whose governments⁶ are parties to the dispute or third parties as defined in paragraph 2 of Article 10 shall not serve on a panel concerned with that dispute, unless the parties to the dispute agree otherwise.
4. To assist in the selection of panelists, the Secretariat shall maintain an indicative list of governmental and non-governmental individuals possessing the qualifications outlined in paragraph 1, from which panelists may be drawn as appropriate. That list shall include the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9), and other rosters and indicative lists established under any of the covered agreements, and shall retain the names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement. Members may periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements, and those names shall be added to

⁶ In the case where customs unions or common markets are parties to a dispute, this provision applies to citizens of all member countries of the customs unions or common markets.

the list upon approval by the DSB. For each of the individuals on the list, the list shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements.

5. Panels shall be composed of three panelists unless the parties to the dispute agree, within 10 days from the establishment of the panel, to a panel composed of five panelists. Members shall be informed promptly of the composition of the panel.

6. The Secretariat shall propose nominations for the panel to the parties to the dispute. The parties to the dispute shall not oppose nominations except for compelling reasons.

7. If there is no agreement on the panelists within 20 days after the date of the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the DSB and the Chairman of the relevant Council or Committee, shall determine the composition of the panel by appointing the panelists whom the Director-General considers most appropriate in accordance with any relevant special or additional rules or procedures of the covered agreement or covered agreements which are at issue in the dispute, after consulting with the parties to the dispute. The Chairman of the DSB shall inform the Members of the composition of the panel thus formed no later than 10 days after the date the Chairman receives such a request.

8. Members shall undertake, as a general rule, to permit their officials to serve as panelists.

9. Panelists shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Members shall therefore not give them instructions nor seek to influence them as individuals with regard to matters before a panel.

10. When a dispute is between a developing country Member and a developed country Member the panel shall, if the developing country Member so requests, include at least one panelist from a developing country Member.

11. Panelists' expenses, including travel and subsistence allowance, shall be met from the WTO budget in accordance with criteria to be adopted by the General Council, based on recommendations of the Committee on Budget, Finance and Administration.

Article 9

Procedures for Multiple Complainants

1. Where more than one Member requests the establishment of a panel related to the same matter, a single panel may be established to examine these

complaints taking into account the rights of all Members concerned. A single panel should be established to examine such complaints whenever feasible.

2. The single panel shall organize its examination and present its findings to the DSB in such a manner that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel shall submit separate reports on the dispute concerned. The written submissions by each of the complainants shall be made available to the other complainants, and each complainant shall have the right to be present when any one of the other complainants presents its views to the panel.

3. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as panelists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonized.

Article 10

Third Parties

1. The interests of the parties to a dispute and those of other Members under a covered agreement at issue in the dispute shall be fully taken into account during the panel process.

2. Any Member having a substantial interest in a matter before a panel and having notified its interest to the DSB (referred to in this Understanding as a "third party") shall have an opportunity to be heard by the panel and to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report.

3. Third parties shall receive the submissions of the parties to the dispute to the first meeting of the panel.

4. If a third party considers that a measure already the subject of a panel proceeding nullifies or impairs benefits accruing to it under any covered agreement, that Member may have recourse to normal dispute settlement procedures under this Understanding. Such a dispute shall be referred to the original panel wherever possible.

Article 11

Function of Panels

The function of panels is to assist the DSB in discharging its responsibilities under this Understanding and the covered agreements. Accordingly, a panel should make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the relevant covered agreements, and make such other findings as will assist

the DSB in making the recommendations or in giving the rulings provided for in the covered agreements. Panels should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution.

Article 12

Panel Procedures

1. Panels shall follow the Working Procedures in Appendix 3 unless the panel decides otherwise after consulting the parties to the dispute.
2. Panel procedures should provide sufficient flexibility so as to ensure high-quality panel reports, while not unduly delaying the panel process.
3. After consulting the parties to the dispute, the panelists shall, as soon as practicable and whenever possible within one week after the composition and terms of reference of the panel have been agreed upon, fix the timetable for the panel process, taking into account the provisions of paragraph 9 of Article 4, if relevant.
4. In determining the timetable for the panel process, the panel shall provide sufficient time for the parties to the dispute to prepare their submissions.
5. Panels should set precise deadlines for written submissions by the parties and the parties should respect those deadlines.
6. Each party to the dispute shall deposit its written submissions with the Secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to in paragraph 3 and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously.
7. Where the parties to the dispute have failed to develop a mutually satisfactory solution, the panel shall submit its findings in the form of a written report to the DSB. In such cases, the report of a panel shall set out the findings of fact, the applicability of relevant provisions and the basic rationale behind any findings and recommendations that it makes. Where a settlement of the matter among the parties to the dispute has been found, the report of the panel shall be confined to a brief description of the case and to reporting that a solution has been reached.

8. In order to make the procedures more efficient, the period in which the panel shall conduct its examination, from the date that the composition and terms of reference of the panel have been agreed upon until the date the final report is issued to the parties to the dispute, shall, as a general rule, not exceed six months. In cases of urgency, including those relating to perishable goods, the panel shall aim to issue its report to the parties to the dispute within three months.

9. When the panel considers that it cannot issue its report within six months, or within three months in cases of urgency, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will issue its report. In no case should the period from the establishment of the panel to the circulation of the report to the Members exceed nine months.

10. In the context of consultations involving a measure taken by a developing country Member, the parties may agree to extend the periods established in paragraphs 7 and 8 of Article 4. If, after the relevant period has elapsed, the consulting parties cannot agree that the consultations have concluded, the Chairman of the DSB shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing country Member, the panel shall accord sufficient time for the developing country Member to prepare and present its argumentation. The provisions of paragraph 1 of Article 20 and paragraph 4 of Article 21 are not affected by any action pursuant to this paragraph.

11. Where one or more of the parties is a developing country Member, the panel's report shall explicitly indicate the form in which account has been taken of relevant provisions on differential and more-favourable treatment for developing country Members that form part of the covered agreements which have been raised by the developing country Member in the course of the dispute settlement procedures.

12. The panel may suspend its work at any time at the request of the complaining party for a period not to exceed 12 months. In the event of such a suspension, the time-frames set out in paragraphs 8 and 9 of this Article, paragraph 1 of Article 20, and paragraph 4 of Article 21 shall be extended by the amount of time that the work was suspended. If the work of the panel has been suspended for more than 12 months, the authority for establishment of the panel shall lapse.

Article 13

Right to Seek Information

1. Each panel shall have the right to seek information and technical advice from any individual or body which it deems appropriate. However, before a panel seeks such information or advice from any individual or body within the jurisdiction of a Member it shall inform the authorities of that Member. A Member should respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information which is provided shall not be revealed without formal authorization from the individual, body, or authorities of the Member providing the information.
2. Panels may seek information from any relevant source and may consult experts to obtain their opinion on certain aspects of the matter. With respect to a factual issue concerning a scientific or other technical matter raised by a party to a dispute, a panel may request an advisory report in writing from an expert review group. Rules for the establishment of such a group and its procedures are set forth in Appendix 4.

Article 14

Confidentiality

1. Panel deliberations shall be confidential.
2. The reports of panels shall be drafted without the presence of the parties to the dispute in the light of the information provided and the statements made.
3. Opinions expressed in the panel report by individual panelists shall be anonymous.

Article 15

Interim Review Stage

1. Following the consideration of rebuttal submissions and oral arguments, the panel shall issue the descriptive (factual and argument) sections of its draft report to the parties to the dispute. Within a period of time set by the panel, the parties shall submit their comments in writing.
2. Following the expiration of the set period of time for receipt of comments from the parties to the dispute, the panel shall issue an interim report to the parties, including both the descriptive sections and the panel's findings and conclusions. Within a period of time set by the panel, a party may submit a written request for the panel to review precise aspects of the interim report prior to circulation of the final report to the Members. At the request of a party, the panel shall hold a further meeting with the parties on the issues identified in the written comments. If no comments are received from any party within the com-

ment period, the interim report shall be considered the final panel report and circulated promptly to the Members.

3. The findings of the final panel report shall include a discussion of the arguments made at the interim review stage. The interim review stage shall be conducted within the time period set out in paragraph 8 of Article 12.

Article 16

Adoption of Panel Reports

1. In order to provide sufficient time for the Members to consider panel reports, the reports shall not be considered for adoption by the DSB until 20 days after the date they have been circulated to the Members.

2. Members having objections to a panel report shall give written reasons to explain their objections for circulation at least 10 days prior to the DSB meeting at which the panel report will be considered.

3. The parties to a dispute shall have the right to participate fully in the consideration of the panel report by the DSB, and their views shall be fully recorded.

4. Within 60 days after the date of circulation of a panel report to the Members, the report shall be adopted at a DSB meeting⁷ unless a party to the dispute formally notifies the DSB of its decision to appeal or the DSB decides by consensus not to adopt the report. If a party has notified its decision to appeal, the report by the panel shall not be considered for adoption by the DSB until after completion of the appeal. This adoption procedure is without prejudice to the right of Members to express their views on a panel report.

Article 17

Appellate Review

Standing Appellate Body

1. A standing Appellate Body shall be established by the DSB. The Appellate Body shall hear appeals from panel cases. It shall be composed of seven persons, three of whom shall serve on any one case. Persons serving on the Appellate Body shall serve in rotation. Such rotation shall be determined in the working procedures of the Appellate Body.

2. The DSB shall appoint persons to serve on the Appellate Body for a four-year term, and each person may be reappointed once. However, the terms of

⁷ If a meeting of the DSB is not scheduled within this period at a time that enables the requirements of paragraphs 1 and 4 of Article 16 to be met, a meeting of the DSB shall be held for this purpose.

three of the seven persons appointed immediately after the entry into force of the WTO Agreement shall expire at the end of two years, to be determined by lot. Vacancies shall be filled as they arise. A person appointed to replace a person whose term of office has not expired shall hold office for the remainder of the predecessor's term.

3. The Appellate Body shall comprise persons of recognized authority, with demonstrated expertise in law, international trade and the subject matter of the covered agreements generally. They shall be unaffiliated with any government. The Appellate Body membership shall be broadly representative of membership in the WTO. All persons serving on the Appellate Body shall be available at all times and on short notice, and shall stay abreast of dispute settlement activities and other relevant activities of the WTO. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest.

4. Only parties to the dispute, not third parties, may appeal a panel report. Third parties which have notified the DSB of a substantial interest in the matter pursuant to paragraph 2 of Article 10 may make written submissions to, and be given an opportunity to be heard by, the Appellate Body.

5. As a general rule, the proceedings shall not exceed 60 days from the date a party to the dispute formally notifies its decision to appeal to the date the Appellate Body circulates its report. In fixing its timetable the Appellate Body shall take into account the provisions of paragraph 9 of Article 4, if relevant. When the Appellate Body considers that it cannot provide its report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case shall the proceedings exceed 90 days.

6. An appeal shall be limited to issues of law covered in the panel report and legal interpretations developed by the panel.

7. The Appellate Body shall be provided with appropriate administrative and legal support as it requires.

8. The expenses of persons serving on the Appellate Body, including travel and subsistence allowance, shall be met from the WTO budget in accordance with criteria to be adopted by the General Council, based on recommendations of the Committee on Budget, Finance and Administration.

Procedures for Appellate Review

9. Working procedures shall be drawn up by the Appellate Body in consultation with the Chairman of the DSB and the Director-General, and communicated to the Members for their information.

10. The proceedings of the Appellate Body shall be confidential. The reports of the Appellate Body shall be drafted without the presence of the parties to the dispute and in the light of the information provided and the statements made.
11. Opinions expressed in the Appellate Body report by individuals serving on the Appellate Body shall be anonymous.
12. The Appellate Body shall address each of the issues raised in accordance with paragraph 6 during the appellate proceeding.
13. The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel.

Adoption of Appellate Body Reports

14. An Appellate Body report shall be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the Appellate Body report within 30 days following its circulation to the Members.⁸ This adoption procedure is without prejudice to the right of Members to express their views on an Appellate Body report.

Article 18

Communications with the Panel or Appellate Body

1. There shall be no *ex parte* communications with the panel or Appellate Body concerning matters under consideration by the panel or Appellate Body.
2. Written submissions to the panel or the Appellate Body shall be treated as confidential, but shall be made available to the parties to the dispute. Nothing in this Understanding shall preclude a party to a dispute from disclosing statements of its own positions to the public. Members shall treat as confidential information submitted by another Member to the panel or the Appellate Body which that Member has designated as confidential. A party to a dispute shall also, upon request of a Member, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.

⁸ If a meeting of the DSB is not scheduled during this period, such a meeting of the DSB shall be held for this purpose.

Article 19

Panel and Appellate Body Recommendations

1. Where a panel or the Appellate Body concludes that a measure is inconsistent with a covered agreement, it shall recommend that the Member concerned⁹ bring the measure into conformity with that agreement.¹⁰ In addition to its recommendations, the panel or Appellate Body may suggest ways in which the Member concerned could implement the recommendations.
2. In accordance with paragraph 2 of Article 3, in their findings and recommendations, the panel and Appellate Body cannot add to or diminish the rights and obligations provided in the covered agreements.

Article 20

Time-frame for DSB Decisions

Unless otherwise agreed to by the parties to the dispute, the period from the date of establishment of the panel by the DSB until the date the DSB considers the panel or appellate report for adoption shall as a general rule not exceed nine months where the panel report is not appealed or 12 months where the report is appealed. Where either the panel or the Appellate Body has acted, pursuant to paragraph 9 of Article 12 or paragraph 5 of Article 17, to extend the time for providing its report, the additional time taken shall be added to the above periods.

Article 21

Surveillance of Implementation of Recommendations and Rulings

1. Prompt compliance with recommendations or rulings of the DSB is essential in order to ensure effective resolution of disputes to the benefit of all Members.
2. Particular attention should be paid to matters affecting the interests of developing country Members with respect to measures which have been subject to dispute settlement.
3. At a DSB meeting held within 30 days¹¹ after the date of adoption of the panel or Appellate Body report, the Member concerned shall inform the DSB of

⁹ The "Member concerned" is the party to the dispute to which the panel or Appellate Body recommendations are directed.

¹⁰ With respect to recommendations in cases not involving a violation of GATT 1994 or any other covered agreement, see Article 26.

¹¹ If a meeting of the DSB is not scheduled during this period, such a meeting of the DSB shall be held for this purpose.

its intentions in respect of implementation of the recommendations and rulings of the DSB. If it is impracticable to comply immediately with the recommendations and rulings, the Member concerned shall have a reasonable period of time in which to do so. The reasonable period of time shall be:

- (a) the period of time proposed by the Member concerned, provided that such period is approved by the DSB; or, in the absence of such approval,
- (b) a period of time mutually agreed by the parties to the dispute within 45 days after the date of adoption of the recommendations and rulings; or, in the absence of such agreement,
- (c) a period of time determined through binding arbitration within 90 days after the date of adoption of the recommendations and rulings.¹² In such arbitration, a guideline for the arbitrator¹³ should be that the reasonable period of time to implement panel or Appellate Body recommendations should not exceed 15 months from the date of adoption of a panel or Appellate Body report. However, that time may be shorter or longer, depending upon the particular circumstances.

4. Except where the panel or the Appellate Body has extended, pursuant to paragraph 9 of Article 12 or paragraph 5 of Article 17, the time of providing its report, the period from the date of establishment of the panel by the DSB until the date of determination of the reasonable period of time shall not exceed 15 months unless the parties to the dispute agree otherwise. Where either the panel or the Appellate Body has acted to extend the time of providing its report, the additional time taken shall be added to the 15-month period; provided that unless the parties to the dispute agree that there are exceptional circumstances, the total time shall not exceed 18 months.

5. Where there is disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings such dispute shall be decided through recourse to these dispute settlement procedures, including wherever possible resort to the original panel. The panel shall circulate its report within 90 days after the date of referral of the matter to it. When the panel considers that it cannot provide its report within this time frame, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report.

¹² If the parties cannot agree on an arbitrator within 10 days after referring the matter to arbitration, the arbitrator shall be appointed by the Director-General within 10 days, after consulting the parties.

¹³ The expression "arbitrator" shall be interpreted as referring either to an individual or a group.

6. The DSB shall keep under surveillance the implementation of adopted recommendations or rulings. The issue of implementation of the recommendations or rulings may be raised at the DSB by any Member at any time following their adoption. Unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved. At least 10 days prior to each such DSB meeting, the Member concerned shall provide the DSB with a status report in writing of its progress in the implementation of the recommendations or rulings.

7. If the matter is one which has been raised by a developing country Member, the DSB shall consider what further action it might take which would be appropriate to the circumstances.

8. If the case is one brought by a developing country Member, in considering what appropriate action might be taken, the DSB shall take into account not only the trade coverage of measures complained of, but also their impact on the economy of developing country Members concerned.

Article 22

Compensation and the Suspension of Concessions

1. Compensation and the suspension of concessions or other obligations are temporary measures available in the event that the recommendations and rulings are not implemented within a reasonable period of time. However, neither compensation nor the suspension of concessions or other obligations is preferred to full implementation of a recommendation to bring a measure into conformity with the covered agreements. Compensation is voluntary and, if granted, shall be consistent with the covered agreements.

2. If the Member concerned fails to bring the measure found to be inconsistent with a covered agreement into compliance therewith or otherwise comply with the recommendations and rulings within the reasonable period of time determined pursuant to paragraph 3 of Article 21, such Member shall, if so requested, and no later than the expiry of the reasonable period of time, enter into negotiations with any party having invoked the dispute settlement procedures, with a view to developing mutually acceptable compensation. If no satisfactory compensation has been agreed within 20 days after the date of expiry of the reasonable period of time, any party having invoked the dispute settlement procedures may request authorization from the DSB to suspend the application to the Member concerned of concessions or other obligations under the covered agreements.

3. In considering what concessions or other obligations to suspend, the complaining party shall apply the following principles and procedures:
- (a) the general principle is that the complaining party should first seek to suspend concessions or other obligations with respect to the same sector(s) as that in which the panel or Appellate Body has found a violation or other nullification or impairment;
 - (b) if that party considers that it is not practicable or effective to suspend concessions or other obligations with respect to the same sector(s), it may seek to suspend concessions or other obligations in other sectors under the same agreement;
 - (c) if that party considers that it is not practicable or effective to suspend concessions or other obligations with respect to other sectors under the same agreement, and that the circumstances are serious enough, it may seek to suspend concessions or other obligations under another covered agreement;
 - (d) in applying the above principles, that party shall take into account:
 - (i) the trade in the sector or under the agreement under which the panel or Appellate Body has found a violation or other nullification or impairment, and the importance of such trade to that party;
 - (ii) the broader economic elements related to the nullification or impairment and the broader economic consequences of the suspension of concessions or other obligations;
 - (e) if that party decides to request authorization to suspend concessions or other obligations pursuant to subparagraphs (b) or (c), it shall state the reasons therefor in its request. At the same time as the request is forwarded to the DSB, it also shall be forwarded to the relevant Councils and also, in the case of a request pursuant to subparagraph (b), the relevant sectoral bodies;
 - (f) for purposes of this paragraph, "sector" means:
 - (i) with respect to goods, all goods;
 - (ii) with respect to services, a principal sector as identified in the current "Services Sectoral Classification List" which identifies such sectors;¹⁴
 - (iii) with respect to trade-related intellectual property rights, each of the categories of intellectual property rights covered in

¹⁴ The list in document MTN.GNS/W/120 identifies 11 sectors.

Section 1, or Section 2, or Section 3, or Section 4, or Section 5, or Section 6, or Section 7 of Part II, or the obligations under Part III, or Part IV of the Agreement on TRIPS;

- (g) for purposes of this paragraph, "agreement" means:
- (i) with respect to goods, the agreements listed in Annex 1A of the WTO Agreement, taken as a whole as well as the Plurilateral Trade Agreements in so far as the relevant parties to the dispute are parties to these agreements;
 - (ii) with respect to services, the GATS;
 - (iii) with respect to intellectual property rights, the Agreement on TRIPS.

4. The level of the suspension of concessions or other obligations authorized by the DSB shall be equivalent to the level of the nullification or impairment.

5. The DSB shall not authorize suspension of concessions or other obligations if a covered agreement prohibits such suspension.

6. When the situation described in paragraph 2 occurs, the DSB, upon request, shall grant authorization to suspend concessions or other obligations within 30 days of the expiry of the reasonable period of time unless the DSB decides by consensus to reject the request. However, if the Member concerned objects to the level of suspension proposed, or claims that the principles and procedures set forth in paragraph 3 have not been followed where a complaining party has requested authorization to suspend concessions or other obligations pursuant to paragraph 3(b) or (c), the matter shall be referred to arbitration. Such arbitration shall be carried out by the original panel, if members are available, or by an arbitrator¹⁵ appointed by the Director-General and shall be completed within 60 days after the date of expiry of the reasonable period of time. Concessions or other obligations shall not be suspended during the course of the arbitration.

7. The arbitrator¹⁶ acting pursuant to paragraph 6 shall not examine the nature of the concessions or other obligations to be suspended but shall determine whether the level of such suspension is equivalent to the level of nullification or impairment. The arbitrator may also determine if the proposed suspension of concessions or other obligations is allowed under the covered agreement. However, if the matter referred to arbitration includes a claim that the principles and procedures set forth in paragraph 3 have not been followed, the arbitrator

¹⁵ The expression "arbitrator" shall be interpreted as referring either to an individual or a group.

¹⁶ The expression "arbitrator" shall be interpreted as referring either to an individual or a group or to the members of the original panel when serving in the capacity of arbitrator.

shall examine that claim. In the event the arbitrator determines that those principles and procedures have not been followed, the complaining party shall apply them consistent with paragraph 3. The parties shall accept the arbitrator's decision as final and the parties concerned shall not seek a second arbitration. The DSB shall be informed promptly of the decision of the arbitrator and shall upon request, grant authorization to suspend concessions or other obligations where the request is consistent with the decision of the arbitrator, unless the DSB decides by consensus to reject the request.

8. The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the measure found to be inconsistent with a covered agreement has been removed, or the Member that must implement recommendations or rulings provides a solution to the nullification or impairment of benefits, or a mutually satisfactory solution is reached. In accordance with paragraph 6 of Article 21, the DSB shall continue to keep under surveillance the implementation of adopted recommendations or rulings, including those cases where compensation has been provided or concessions or other obligations have been suspended but the recommendations to bring a measure into conformity with the covered agreements have not been implemented.

9. The dispute settlement provisions of the covered agreements may be invoked in respect of measures affecting their observance taken by regional or local governments or authorities within the territory of a Member. When the DSB has ruled that a provision of a covered agreement has not been observed, the responsible Member shall take such reasonable measures as may be available to it to ensure its observance. The provisions of the covered agreements and this Understanding relating to compensation and suspension of concessions or other obligations apply in cases where it has not been possible to secure such observance.¹⁷

Article 23

Strengthening of the Multilateral System

1. When Members seek the redress of a violation of obligations or other nullification or impairment of benefits under the covered agreements or an impediment to the attainment of any objective of the covered agreements, they shall have recourse to, and abide by, the rules and procedures of this Understanding.

2. In such cases, Members shall:

¹⁷ Where the provisions of any covered agreement concerning measures taken by regional or local governments or authorities within the territory of a Member contain provisions different from the provisions of this paragraph, the provisions of such covered agreement shall prevail.

- (a) not make a determination to the effect that a violation has occurred, that benefits have been nullified or impaired or that the attainment of any objective of the covered agreements has been impeded, except through recourse to dispute settlement in accordance with the rules and procedures of this Understanding, and shall make any such determination consistent with the findings contained in the panel or Appellate Body report adopted by the DSB or an arbitration award rendered under this Understanding;
- (b) follow the procedures set forth in Article 21 to determine the reasonable period of time for the Member concerned to implement the recommendations and rulings; and
- (c) follow the procedures set forth in Article 22 to determine the level of suspension of concessions or other obligations and obtain DSB authorization in accordance with those procedures before suspending concessions or other obligations under the covered agreements in response to the failure of the Member concerned to implement the recommendations and rulings within that reasonable period of time.

Article 24

Special Procedures Involving Least-Developed Country Members

1. At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving a least-developed country Member, particular consideration shall be given to the special situation of least-developed country Members. In this regard, Members shall exercise due restraint in raising matters under these procedures involving a least-developed country Member. If nullification or impairment is found to result from a measure taken by a least-developed country Member, complaining parties shall exercise due restraint in asking for compensation or seeking authorization to suspend the application of concessions or other obligations pursuant to these procedures.

2. In dispute settlement cases involving a least-developed country Member, where a satisfactory solution has not been found in the course of consultations the Director-General or the Chairman of the DSB shall, upon request by a least-developed country Member offer their good offices, conciliation and mediation with a view to assisting the parties to settle the dispute, before a request for a panel is made. The Director-General or the Chairman of the DSB, in providing the above assistance, may consult any source which either deems appropriate.

Article 25

Arbitration

1. Expeditious arbitration within the WTO as an alternative means of dispute settlement can facilitate the solution of certain disputes that concern issues that are clearly defined by both parties.
2. Except as otherwise provided in this Understanding, resort to arbitration shall be subject to mutual agreement of the parties which shall agree on the procedures to be followed. Agreements to resort to arbitration shall be notified to all Members sufficiently in advance of the actual commencement of the arbitration process.
3. Other Members may become party to an arbitration proceeding only upon the agreement of the parties which have agreed to have recourse to arbitration. The parties to the proceeding shall agree to abide by the arbitration award. Arbitration awards shall be notified to the DSB and the Council or Committee of any relevant agreement where any Member may raise any point relating thereto.
4. Articles 21 and 22 of this Understanding shall apply *mutatis mutandis* to arbitration awards.

Article 26

1. *Non-Violation Complaints of the Type Described in Paragraph 1(b) of Article XXIII of GATT 1994*

Where the provisions of paragraph 1(b) of Article XXIII of GATT 1994 are applicable to a covered agreement, a panel or the Appellate Body may only make rulings and recommendations where a party to the dispute considers that any benefit accruing to it directly or indirectly under the relevant covered agreement is being nullified or impaired or the attainment of any objective of that Agreement is being impeded as a result of the application by a Member of any measure, whether or not it conflicts with the provisions of that Agreement. Where and to the extent that such party considers and a panel or the Appellate Body determines that a case concerns a measure that does not conflict with the provisions of a covered agreement to which the provisions of paragraph 1(b) of Article XXIII of GATT 1994 are applicable, the procedures in this Understanding shall apply, subject to the following:

- (a) the complaining party shall present a detailed justification in support of any complaint relating to a measure which does not conflict with the relevant covered agreement;
- (b) where a measure has been found to nullify or impair benefits under, or impede the attainment of objectives, of the relevant

covered agreement without violation thereof, there is no obligation to withdraw the measure. However, in such cases, the panel or the Appellate Body shall recommend that the Member concerned make a mutually satisfactory adjustment;

- (c) notwithstanding the provisions of Article 21, the arbitration provided for in paragraph 3 of Article 21, upon request of either party, may include a determination of the level of benefits which have been nullified or impaired, and may also suggest ways and means of reaching a mutually satisfactory adjustment: such suggestions shall not be binding upon the parties to the dispute;
- (d) notwithstanding the provisions of paragraph 1 of Article 22, compensation may be part of a mutually satisfactory adjustment as final settlement of the dispute.

2. *Complaints of the Type Described in Paragraph 1(c) of Article XXIII of GATT 1994*

Where the provisions of paragraph 1(c) of Article XXIII of GATT 1994 are applicable to a covered agreement, a panel may only make rulings and recommendations where a party considers that any benefit accruing to it directly or indirectly under the relevant covered agreement is being nullified or impaired or the attainment of any objective of that Agreement is being impeded as a result of the existence of any situation other than those to which the provisions of paragraphs 1(a) and 1(b) of Article XXIII of GATT 1994 are applicable. Where and to the extent that such party considers and a panel determines that the matter is covered by this paragraph, the procedures of this Understanding shall apply only up to and including the point in the proceedings where the panel report has been circulated to the Members. The dispute settlement rules and procedures contained in the Decision of 12 April 1989 (BISD 36S/61-67) shall apply to consideration for adoption, and surveillance and implementation of recommendations and rulings. The following shall also apply:

- (a) the complaining party shall present a detailed justification in support of any argument made with respect to issues covered under this paragraph;
- (b) in cases involving matters covered by this paragraph, if a panel finds that cases also involve dispute settlement matters other than those covered by this paragraph, the panel shall circulate a report to the DSB addressing any such matters and a separate report on matters falling under this paragraph.

Article 27

Responsibilities of the Secretariat

1. The Secretariat shall have the responsibility of assisting panels, especially on the legal, historical and procedural aspects of the matters dealt with, and of providing secretarial and technical support.
2. While the Secretariat assists Members in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing country Members. To this end, the Secretariat shall make available a qualified legal expert from the WTO technical cooperation services to any developing country Member which so requests. This expert shall assist the developing country Member in a manner ensuring the continued impartiality of the Secretariat.
3. The Secretariat shall conduct special training courses for interested Members concerning these dispute settlement procedures and practices so as to enable Members' experts to be better informed in this regard.

APPENDIX 1

AGREEMENTS COVERED BY THE UNDERSTANDING

- (A) Agreement Establishing the World Trade Organization
- (B) Multilateral Trade Agreements
 - Annex 1A: Multilateral Agreements on Trade in Goods
 - Annex 1B: General Agreement on Trade in Services
 - Annex 1C: Agreement on Trade-Related Aspects of Intellectual Property Rights
 - Annex 2: Understanding on Rules and Procedures Governing the Settlement of Disputes
- (C) Plurilateral Trade Agreements
 - Annex 4: Agreement on Trade in Civil Aircraft
 - Agreement on Government Procurement
 - International Dairy Agreement
 - International Bovine Meat Agreement

The applicability of this Understanding to the Plurilateral Trade Agreements shall be subject to the adoption of a decision by the parties to each agreement setting out the terms for the application of the Understanding to the indi-

vidual agreement, including any special or additional rules or procedures for inclusion in Appendix 2, as notified to the DSB.

APPENDIX 2
SPECIAL OR ADDITIONAL RULES AND PROCEDURES
CONTAINED IN THE COVERED AGREEMENTS

<i>Agreement</i>	<i>Rules and Procedures</i>
Agreement on the Application of Sanitary and Phytosanitary Measures	11.2
Agreement on Textiles and Clothing	2.14, 2.21, 4.4, 5.2, 5.4, 5.6, 6.9, 6.10, 6.11, 8.1 through 8.12
Agreement on Technical Barriers to Trade	14.2 through 14.4, Annex 2
Agreement on Implementation of Article VI of GATT 1994	17.4 through 17.7
Agreement on Implementation of Article VII of GATT 1994	19.3 through 19.5, Annex II.2(f), 3, 9, 21
Agreement on Subsidies and Countervailing Measures	4.2 through 4.12, 6.6, 7.2 through 7.10, 8.5, footnote 35, 24.4, 27.7, Annex V
General Agreement on Trade in Services	XXII:3, XXIII:3
Annex on Financial Services	4
Annex on Air Transport Services	4
Decision on Certain Dispute Settlement Procedures for the GATS	1 through 5

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

Any special or additional rules or procedures in the Plurilateral Trade Agreements as determined by the competent bodies of each agreement and as notified to the DSB.

APPENDIX 3
WORKING PROCEDURES

1. In its proceedings the panel shall follow the relevant provisions of this Understanding. In addition, the following working procedures shall apply.
2. The panel shall meet in closed session. The parties to the dispute, and interested parties, shall be present at the meetings only when invited by the panel to appear before it.
3. The deliberations of the panel and the documents submitted to it shall be kept confidential. Nothing in this Understanding shall preclude a party to a dispute from disclosing statements of its own positions to the public. Members shall treat as confidential information submitted by another Member to the panel which that Member has designated as confidential. Where a party to a dispute submits a confidential version of its written submissions to the panel, it shall also, upon request of a Member, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public.
4. Before the first substantive meeting of the panel with the parties, the parties to the dispute shall transmit to the panel written submissions in which they present the facts of the case and their arguments.
5. At its first substantive meeting with the parties, the panel shall ask the party which has brought the complaint to present its case. Subsequently, and still at the same meeting, the party against which the complaint has been brought shall be asked to present its point of view.
6. All third parties which have notified their interest in the dispute to the DSB shall be invited in writing to present their views during a session of the first substantive meeting of the panel set aside for that purpose. All such third parties may be present during the entirety of this session.
7. Formal rebuttals shall be made at a second substantive meeting of the panel. The party complained against shall have the right to take the floor first to be followed by the complaining party. The parties shall submit, prior to that meeting, written rebuttals to the panel.
8. The panel may at any time put questions to the parties and ask them for explanations either in the course of a meeting with the parties or in writing.
9. The parties to the dispute and any third party invited to present its views in accordance with Article 10 shall make available to the panel a written version of their oral statements.
10. In the interest of full transparency, the presentations, rebuttals and statements referred to in paragraphs 5 to 9 shall be made in the presence of the parties. Moreover, each party's written submissions, including any comments on

APPENDIX 4
EXPERT REVIEW GROUPS

The following rules and procedures shall apply to expert review groups established in accordance with the provisions of paragraph 2 of Article 13.

1. Expert review groups are under the panel's authority. Their terms of reference and detailed working procedures shall be decided by the panel, and they shall report to the panel.
2. Participation in expert review groups shall be restricted to persons of professional standing and experience in the field in question.
3. Citizens of parties to the dispute shall not serve on an expert review group without the joint agreement of the parties to the dispute, except in exceptional circumstances when the panel considers that the need for specialized scientific expertise cannot be fulfilled otherwise. Government officials of parties to the dispute shall not serve on an expert review group. Members of expert review groups shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before an expert review group.
4. Expert review groups may consult and seek information and technical advice from any source they deem appropriate. Before an expert review group seeks such information or advice from a source within the jurisdiction of a Member, it shall inform the government of that Member. Any Member shall respond promptly and fully to any request by an expert review group for such information as the expert review group considers necessary and appropriate.
5. The parties to a dispute shall have access to all relevant information provided to an expert review group, unless it is of a confidential nature. Confidential information provided to the expert review group shall not be released without formal authorization from the government, organization or person providing the information. Where such information is requested from the expert review group but release of such information by the expert review group is not authorized, a non-confidential summary of the information will be provided by the government, organization or person supplying the information.
6. The expert review group shall submit a draft report to the parties to the dispute with a view to obtaining their comments, and taking them into account, as appropriate, in the final report, which shall also be issued to the parties to the dispute when it is submitted to the panel. The final report of the expert review group shall be advisory only.

the descriptive part of the report and responses to questions put by the panel, shall be made available to the other party or parties.

11. Any additional procedures specific to the panel.
12. Proposed timetable for panel work:
 - (a) Receipt of first written submissions of the parties:
 - (1) complaining Party: _____ 3-6 weeks
 - (2) Party complained against: _____ 2-3 weeks
 - (b) Date, time and place of first substantive meeting with the parties: third party session: _____ 1-2 weeks
 - (c) Receipt of written rebuttals of the parties: _____ 2-3 weeks
 - (d) Date, time and place of second substantive meeting with the parties: _____ 1-2 weeks
 - (e) Issuance of descriptive part of the report to the parties: _____ 2-4 weeks
 - (f) Receipt of comments by the parties on the descriptive part of the report: _____ 2 weeks
 - (g) Issuance of the interim report, including the findings and conclusions, to the parties: _____ 2-4 weeks
 - (h) Deadline for party to request review of part(s) of report: _____ 1 week
 - (i) Period of review by panel, including possible additional meeting with parties: _____ 2 weeks
 - (j) Issuance of final report to parties to dispute: _____ 2 weeks
 - (k) Circulation of the final report to the Members: _____ 3 weeks

The above calendar may be changed in the light of unforeseen developments. Additional meetings with the parties shall be scheduled if required.

ประวัติผู้เขียน



นางสาวอาภรณ์ีย์ เสมรสุต เกิดเมื่อวันที่ 11 มกราคม พ.ศ. 2519 ณ จังหวัด กรุงเทพมหานคร จบการศึกษาระดับมัธยมศึกษาตอนต้นและมัธยมศึกษาตอนปลายที่โรงเรียนราชินี บนในปี พ.ศ. 2535 จบการศึกษาระดับปริญญานิติศาสตรบัณฑิตจากคณะนิติศาสตร์ จุฬาลงกรณ์ มหาวิทยาลัยในปี พ.ศ. 2539 และปริญญารัฐศาสตรบัณฑิต สาขาทฤษฎีและเทคนิคทางการปกครองจากคณะรัฐศาสตร์ มหาวิทยาลัยสุโขทัยธรรมาธิราชในปี พ.ศ. 2540 และเข้าศึกษาต่อในระดับปริญญานิติศาสตรมหาบัณฑิต สาขากฎหมายระหว่างประเทศที่คณะนิติศาสตร์ จุฬาลงกรณ์ มหาวิทยาลัยในปี พ.ศ. 2540 ปัจจุบันรับราชการที่กรมบังคับคดี กระทรวงยุติธรรม