

1 ARTICLE 9

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c o m p l a i n a n t s , a n d e a r a h
other complainants presents its views to

3. If more than one panel is established in a matter, to the greatest extent possible the work of the separate panels and the timetable for the completion of the work shall be harmonized.

1.2 Article t3Tc 0 Tw 2.983.T0.6 (s)7 (i

Article 22 of the DSU in respect of uncured inconsistencies with WTO rules that were not complained of by one of the complaining parties participating in a panel proceeding. Our reports must bear this objective in mind.

For purposes of determining whether a Complainant in this matter has made a claim, we have examined its first written submission, as we con

6. Recalling its conclusions in EC – Hormones on panels' discretion in dealing with procedural issues, the Appellate Body considered that the Panel had acted within its discretion when rejecting the late request for separate reports:

"[W]e note that the first sentence in Article 9.2 provides that it is for the panel to 'organize its examination and present its findings 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'. Our comments in EC – Hormones about panels' discretion in dealing with procedural issues are pertinent here:

'... the DSU and in particular its Appendix 3, leave panels a margin of discretion to deal, always in accordance with due process, with specific situations that may arise in a particular case and that are not explicitly specified. 0. With the (...) 1882-023 3-001-0504 T-653(t)4-0464T(i)-2-(()05 (e)211 (a)6)9g.43(r)614

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document is deemed to be eight separate reports, each of the reports relating to each one of the eight complainants in this dispute. The document comprises a common cover page and a common Descriptive Part. This reflects the fact that the eight steel safeguard disputes were reviewed through a single panel process. This single document also contains a common set of Findings in relation to each of the claims that the Panel has decided to address. In our exercise of judicial economy, we have mainly addressed the complainants' common claims and on that basis, we were able to issue a common set of Findings which, we believed, resolved the dispute. Finally, this document also contains the five Dispute Settlement Body (DSB) reports (WT/DS433, WT/DS434, WT/DS435, WT/DS436, WT/DS437) which were issued on 10 October 2001.

arguments were different; where the Complainant Parties' arguments were identical or very similar, we have generally prepared an integrated argument summary for all Complainant Parties. With regard to the final section of this document, entitled 'Conclusions and Recommendations', we note that the conclusions we reached and the recommendations we made have been particularized for each Complainant Party. Accordingly, this document contains three independent sets of conclusions and recommendations.

In our view, the approach outlined above satisfies the requirement contained in Article 9.2 that a single panel 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. We also consider that this approach is consistent with the approach followed in a similar situation by the panel in *US – Steel Safeguards*.¹¹

13. Similarly, the panel in *EC – IT Products* issued the report as a single document with "the conclusions and recommendation for each of the disputes be set out on separate pages with each page bearing only the Report Symbol relating to that dispute".¹²

14. In *Philippines - Taxes on Distilled Spirits*, the Panel explained that its findings were "issued in the form of a single document, containing two separate reports. The Panel's conclusions and recommendations for each of the disputes are set out on separate pages, with each page bearing only the report symbol relating to that dispute."¹³

1.3.4 Separate Appellate Body reports

15. In *US – Shrimp (Thailand) / US – Customs Bond Directive*, the Appellate Body issued a single document with separate Findings and Conclusions in respect of each dispute.¹⁴

16. In *US/Canada – Continued Suspension*, the United States and Canada confirmed their preference for two separate Appellate Body reports. The Appellate Body issued separate reports, which are identical except for the Findings and Conclusions section.¹⁵

17. In *China – Auto Parts*, the United States requested the Appellate Body to issue three separate reports in this appeal, setting out its conclusions and recommendations separately for each panel report under appeal. The other participants and the third participants were afforded an opportunity to comment on this request at the oral hearing. They made no objection to the United States' request.¹⁶ The Appellate Body issued the report as a single document, with separate Findings and Conclusions sections for each report.

1.4 Article 9.3: multiple panels established to examine complaints relating to the same matter

1.4.1 "to the greatest extent possible the same persons shall serve as panelists on each of the separate panels"

18. For an information on cases where the same panelists served on separate panels pursuant to Article 9.3, see the chapter of the Analytical Index on "DSU information tables".

1.4.2 "to the greatest extent possible ... the timetable for the panel process in such disputes shall be harmonized"

19. In US – Shrimp (Thailand) and US – Customs Bond Directive, the DSB established two different Panels, which later on were composed of the same panelists. At the DSB, Thailand had stated that it had expected the establishment of a single Panel for both proceedings in accordance with Article 9.1 of the DSU and that, in the absence of that single Panel, it expected that the same persons would be appointed as panelists in the two disputes and that the timetables would be harmonized, pursuant to Article 9.3 of the DSU. The representative of the United States responded that, although the Panel in DS343 had already been established, the same persons could be appointed to serve as panelists in the two proceedings and the timetables of the separate Panels could be harmonized. On 23 February 2007, the Panel sent to the parties a joint Timetable as well as separate, albeit similar, (a) sa bei3 (t)-g P(r)6.3 (o)-2.3 (c)5 (3 ()3.3 (d,)83 (l)1.3 (es)5 (po)TJ 0 Tc 0 Tw 10.29.80 Td [(

