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# **Manchester Journal of International Economic Law**

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## Parallel Reports in the WTO Dispute Settlement

Jaime Tijmes\*

**ABSTRACT:** *This article classifies WTO dispute settlement reports as free standing or parallel, according to the relation between disputes and reports. Parallel reports are different, yet deal with the same or closely related matter, have a very similar wording, and share dispute parties. After exploring the rationale behind the right that parties to a dispute have to request separate reports, this article analyses parallel reports and the divergences and quotation problems they sometimes present. Some systemic implications of divergences between parallel reports are examined, while proposals for improving parallel reports are put forward.*

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### 1. INTRODUCTION

One of the central features of the World Trade Organization (WTO) is its dispute settlement system. Each individual WTO dispute is assigned a specific dispute number (WT/DS1, WT/DS2, WT/DS3, etc.). Some disputes have not gone beyond consultations held according to Art. 4 of the WTO's Dispute Settlement Understanding (DSU), or beyond the establishment or composition of a panel pursuant to Art. 6 or 8 DSU, respectively. In the other disputes, the panel, and often also the WTO Appellate Body (AB), have issued reports; in some disputes arbitrators have issued decisions pursuant to Art. 22.6 DSU, and arbitrators have also issued awards according to Art. 21.3(c), or Art. 25 DSU, as well. (Henceforth, the term 'report' will refer to panel reports, AB reports, arbitrators' decisions, and arbitration awards).

Some WTO dispute settlement reports are parallel, meaning that they are different yet deal with the same or closely related matter, have very similar wording, and share dispute parties. If properly conceived, separate reports in general and parallel reports in particular can be a valuable means to achieve increased clarity, brevity and simplicity. However, WTO dispute settlement has not always taken full advantage of their potential benefits. This is somewhat puzzling and underscores how important it is to cogitate on parallel reports so that their potential advantages may be fully realized, while averting potential shortcomings.

After offering a classification of WTO dispute settlement reports according to the

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relations between the disputes in reports in section 2 of this article, section 3 explores the rationale behind the right that parties to a dispute have to request separate reports. Section 4 analyses the main disadvantages that parallel reports present, especially their divergences and quotation problems. Section 5 considers and classifies these divergences. Some systemic implications of divergences between parallel reports are examined in section 6, while section 7 puts forward some proposals for improving parallel reports and section 8 offers some conclusions. Finally, section 9 contains annexes that compare the parallel reports issued so far.

## 2. CLASSIFICATION OF WTO DISPUTE SETTLEMENT REPORTS

WTO disputes often consist of one complaining and one defending party. However, some disputes have more than one complainant. If more than one WTO Member requests the establishment of a panel related to the same matter against a single defendant, it may result in a single dispute with multiple complainants<sup>1</sup> (Art. 9 DSU), the initiation of separate disputes,<sup>2</sup> or a combination of both.<sup>3</sup> Multiple defending parties regarding the same subject matter necessarily means more than one WTO dispute since the DSU does not allow single disputes with multiple defendants.<sup>4</sup> Thus far, there have not been multiple complaining and defending parties regarding the same matter, as this would encompass multiple defendants and it would generate more than one WTO dispute.

Regarding the relation between disputes and reports, WTO dispute settlement reports of a certain level can be classified as follows:

Free standing reports	{	free standing reports that settle a level in one dispute
		free standing reports that settle a level in more than one dispute
parallel reports	{	parallel reports that settle a level in one dispute
		parallel reports that settle a level in more than one dispute

<sup>1</sup> As of 19 December 2012, four such disputes had reached the panel stage: Ecuador, Guatemala, Honduras, Mexico and the United States acted as complaining parties in *EC – Bananas III* (WT/DS27), while India, Malaysia, Pakistan and Thailand acted as complaining parties in *US – Shrimp* (WT/DS58). See also the two disputes referred to in footnote 3.

<sup>2</sup> As of 19 December 2012, 32 such dispute clusters had reached the panel stage. E.g. *US – Steel Safeguards* consists of disputes with the following complaining parties: the European Communities (WT/DS248), Japan (WT/DS249), Korea (WT/DS251), China (WT/DS252), Switzerland (WT/DS253), Norway (WT/DS254), New Zealand (WT/DS258) and Brazil (WT/DS259).

<sup>3</sup> As of 19 December 2012, it had happened once: eleven complainants formed two groups and started two disputes titled *US – Offset Act (Byrd Amendment)* (WTDS217 and WT/DS234).

<sup>4</sup> As of 19 December 2012, it had happened once: *US – Continued Suspension* (WT/DS320) and *Canada – Continued Suspension* (WT/DS321), the European Communities being the complainant in both disputes. Disputes with multiple defendants are not allowed, but defendants in disputes regarding the same subject may act as third parties in the related dispute if they have, as they normally do, a substantial interest in the matter according to Art. 10.2 DSU, just as the US and Canada did in those disputes.

In this article, the term ‘level’ refers to the stages in WTO dispute settlement that conclude with a report. Examples include the panel level, the AB level, the arbitration level pursuant to Art. 22.6 DSU, and the arbitration level according to Art. 21.3(c) or Art. 25 DSU.

Most reports are free standing, that is, reports whose differences in subject matter, wording, and dispute parties make them clearly distinguishable. They may share, as they normally do, certain passages with other reports, because they quote certain treaty texts, or previous WTO reports, for example. Some settle a level in one dispute,<sup>5</sup> while others settle a level in more than one dispute.<sup>6</sup> (Whether a single report that examines multiple complaints with different dispute numbers<sup>7</sup> settles one dispute or many disputes is debatable. Without claiming to settle this issue, this article considers reports that have more than one dispute number to settle several disputes).

Secondly, reports that share a dispute level are termed in this article as parallel when, although different, they share the same or closely related matter, contain very similar wording, and share one or more dispute parties (be it defendants or complainants). They can settle a level in one, or in more than one, dispute.

Parallel reports that settle a level in one dispute occur because in single disputes with multiple complainants, if one of the parties to the dispute so requests, the panel shall submit separate reports on the dispute concerned (Art. 9.2 DSU).<sup>8</sup> In practice, arbitrators pursuant to Art. 22.6 DSU have issued separate decisions too, even though the DSU does not envisage that possibility.<sup>9</sup>

Regarding more than one dispute, reports of the same level are issued as parallel reports when, for example, a Member brings a complaint against several defending parties.<sup>10</sup>

Incidentally, the issuance of parallel reports is typically, yet not necessarily, synchronous.<sup>11</sup>

<sup>5</sup> E.g. *US – Upland Cotton*, WTO Appellate Body Report (WT/DS267/AB/R). A single level in one dispute can be settled multiple times by different free standing reports, as, e.g. in *EC – Bananas III* the arbitration level pursuant to Art. 22.6 DSU (*EC – Bananas III*, WTO Arbitrators Decision (WT/DS27/ARB) and *EC – Bananas III*, WTO Arbitrators Decision (WT/DS27/ARB/ECU) and the panel level in accordance with Art. 21.5 DSU (*EC – Bananas III*, WTO Panel Report (WT/DS27/RW/ECU) and *EC – Bananas III*, WTO Panel Report (WT/DS27/RW/EEC)).

<sup>6</sup> E.g. *EC – Approval and Marketing of Biotech Products*, WTO Panel Report (WT/DS291/R, WT/DS292/R, WT/DS293/R). Judicial economy, as well as congruence considerations, speak in favour of issuing, whenever reasonable, a single report for different disputes related to the same matter. Along the same lines, it is possible to share panellists on different panels established to examine complaints related to the same matter and to harmonize timetables for the panel process (Art. 9.3 DSU).

<sup>7</sup> As in the previous footnote’s example.

<sup>8</sup> E.g. the following parallel reports were issued in one dispute: *EC – Bananas III*, WTO Panel Report (WT/DS27/R/ECU, WT/DS27/R/GTM & WT/DS27/R/HND, WT/DS27/R/MEX, WT/DS27/R/USA).

<sup>9</sup> *EC – Hormones* (Art. 22.6 DSU), WTO Arbitrator Decisions (WT/DS26/ARB and WT/DS48/ARB); *US – Offset Act (Byrd Amendment)* (Art. 22.6 DSU), WTO Arbitrator Decisions (WT/DS217/ARB/BRA, WT/DS217/ARB/CHL, WT/DS217/ARB/EEC, WT/DS217/ARB/IND, WT/DS217/ARB/JPN, WT/DS217/ARB/KOR, WT/DS234/ARB/CAN and WT/DS234/ARB/MEX); and *US – Subsidies on Upland Cotton* (Art. 22.6 DSU), WTO Arbitrator Decisions (WT/DS267/ARB/1 and WT/DS267/ARB/2).

<sup>10</sup> E.g. the following parallel reports were issued in different disputes: *EC – Hormones*, WTO Panel Report (WT/DS26/R/USA) and *EC – Hormones (Canada)*, WTO Panel Report (WT/DS48/R/CAN).

<sup>11</sup> E.g. *EC – Bananas III* (Art. 21.5 DSU – Ecuador), WTO Panel Report (WT/DS27/RW2/ECU) was circulated on 7 April 2008 and *EC – Bananas III* (Art. 21.5 DSU – United States), WTO Panel Report (WT/DS27/RW/USA) was circulated on 19 May 2008; *India – Patents (US)*, WTO Panel Report (WT/DS50/R) was circulated on 5 September 1997 and *India – Patents (EC)*, WTO Panel Report (WT/DS79/R) was circulated 24 August 1998; *US –*

In summary, WTO dispute settlement reports can be classified as free standing or parallel, and both can settle a level in one dispute or in more than one dispute.

### 3. THE REQUEST TO SUBMIT SEPARATE REPORTS

As already mentioned, the procedures for multiple complainants laid out in Art. 9.2 DSU allow a party to the dispute to request that the panel submit separate reports on the dispute concerned. While it is not mandatory that these separate reports be parallel, to the best of my knowledge, all of them have been so far. Thus, Art. 9.2 DSU lays out the legal foundation for parallel reports that settle a level in one dispute.

The rule for the submission of separate reports spelled out in the second sentence of Art. 9.2 DSU originated rather casuistically during the GATT years, gradually developed and was finally codified.

According to the GATT official documents, the beginnings can be traced back to February 1987 and the Superfund dispute (*United States – Taxes on Petroleum and Certain Imported Substances*). The three complaining parties (Canada, the European Communities and Mexico) had issued individual requests for the establishment of a panel on this matter, but apparently they were concerned that their procedural rights could be impaired because a single Panel would examine the dispute. Canada ‘preferred that the panel make three separate reports’ and the European Communities expressed that ‘it was the right of each complainant to ask for a separate report’.<sup>12</sup> Against this backdrop, the following understanding was agreed upon: ‘The Panel will organize its examination and present its findings to the Council in such a way that the procedural rights which the parties to the dispute would have enjoyed if separate panels had examined the complaints are in no way impaired. If one of the complainants so requests[,] the panel will submit a separate report on the complaint of that party’.<sup>13</sup> Therefore, it seems that the right to request separate reports was designed to guarantee the rights of the parties.<sup>14</sup> That understanding from the Superfund dispute was subsequently also included in another Panel report.<sup>15</sup> In both disputes, a single Panel was set up and in the end one single report was issued.

In 1988, GATT contracting parties debated the issues of multi-party GATT disputes and intervention of interested third parties. The right to request separate reports was regularly

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*1916 Act (EC)*, WTO Panel Report (WT/DS136/R) was circulated on 31 March 2000 and *US – 1916 Act (Japan)*, WTO Panel Report (WT/DS162/R and WT/DS162/R/Add.1) was circulated on 29 May 2000.

<sup>12</sup> Minutes of meeting held in the Centre William Rappard on 4 February 1987, C/M/206, 23 February 1987, at 11.

<sup>13</sup> *Ibid.*, at 13. See also *United States – Taxes on Petroleum and Certain Imported Substances*, GATT Panel Report, adopted on 17 June 1987, L/6175 - 34S/136, para. 1.4.

<sup>14</sup> E.g. in the follow-up to the GATT Panel Report on the Superfund dispute, Mexico was not pleased with the technical advice the GATT Secretariat had given to another complaining party. Since the Panel had been established subject to the quoted understanding, Mexico held that that technical advice ‘could not create a precedent for the other parties to the dispute’ because it would impair the rights Mexico would have enjoyed had separate panels examined the complaints. See Minutes of meeting held in the Centre William Rappard on 22 September 1988, C/M/224, 17 October 1988, at 16-17.

<sup>15</sup> *United States – Customs User Fee*, GATT Panel Report, issued on 25 November 1987, adopted on 2 February 1988, L/6264 - 35S/245, para. 3. In 1988, separate panels were appointed in two other disputes with multiple complainants; see Multi-complainants Procedures and Intervention by Third Parties in GATT Dispute Settlement Proceedings, Note by the GATT Secretariat, MTN.GNG/NG13/W/28, 5 July 1988, paras 11-12.



mentioned but rarely discussed.<sup>16</sup> The GATT Secretariat prepared documents that reproduced the Superfund understanding and by September the Secretariat suggested awarding the right to request separate reports not only to complainants but to all parties to the dispute.<sup>17</sup> Only exceptionally do the official documents record a degree of discussion of the issue, namely when a contracting party claimed that small countries were often involved as multi-complainants<sup>18</sup> and when a delegation apparently understood the right to request separate reports as a means to safeguard especially the rights of the defendant.<sup>19</sup> Late that same year, the Negotiating Group on Dispute Settlement reached consensus on a text that included the right to request separate reports<sup>20</sup> and the Ministers adopted it.<sup>21</sup>

This development crystallized in the GATT Decision of 12 April 1989 on Improvements to the GATT Dispute Settlement Rules and Procedures. The relevant part of the text reads: ‘If one of the parties to the dispute so requests, the panel will submit separate reports on the dispute’.<sup>22</sup> This Decision laid the ground for future work<sup>23</sup> and was finally included with slight modifications in Art. 9.2 DSU.

In summary, the right to request separate reports has its historical origin in a specific GATT dispute. In a quite swift process, it was codified during the then ongoing Uruguay Round negotiations and finally coalesced in Art. 9.2 DSU. Separate reports respond to a legitimate concern on the part of the parties to a dispute. However, the underlying principle for this rule was not spelled out in official GATT documents.

In the WTO context, the rationale for this rule allowing parties to request separate reports has been discussed on occasion. One Panel held the view that ‘one of the objectives of Article 9 is to ensure that a respondent is not later faced with a demand for compensation or threatened by retaliation under Article 22 of the DSU in respect of uncured inconsistencies

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<sup>16</sup> See, e.g. Negotiating Group on Dispute Settlement, Meeting of 23 and 24 June 1988, Note by the GATT Secretariat, MTN.GNG/NG13/8, 5 July 1988, para. 32. Negotiating Group on Dispute Settlement, Meeting on 11 July 1988, Note by the GATT Secretariat, MTN.GNG/NG13/9, 21 July 1988, para. 29. Negotiating Group on Dispute Settlement, Communication from Mexico, Revision, MTN.GNG/NG13/W/26/Rev.1, 10 October 1988, at 3. Negotiating Group on Dispute Settlement, Dispute settlement proposal, MTN.GNG/NG13/W/30, 10 October 1988, at 3.

<sup>17</sup> Multi-complainants Procedures and Intervention by Third Parties in GATT Dispute Settlement Proceedings, Note by the GATT Secretariat, MTN.GNG/NG13/W/28, 5 July 1988, paras 9-10. Negotiating Group on Dispute Settlement, Comparison of existing texts and proposals for improvements to the GATT dispute settlement system, Note by the GATT Secretariat, MTN.GNG/NG13/W/29, 8 August 1988, at 10-11. Negotiating Group on Dispute Settlement, Comparison of existing texts and proposals for improvements to the GATT dispute settlement system, Revised Note by the GATT Secretariat, MTN.GNG/NG13/W/29/Rev.1, 21 September 1988, at 14.

<sup>18</sup> Negotiating Group on Dispute Settlement, Meeting on 11 July 1988, Note by the GATT Secretariat, MTN.GNG/NG13/9, 21 July 1988, para. 16.

<sup>19</sup> Negotiating Group on Dispute Settlement, Meetings on 6 and 7 September 1988, Note by the GATT Secretariat, MTN.GNG/NG13/10, 4 October 1988, para. 18.

<sup>20</sup> Group of Negotiations on Goods, Report to the Trade Negotiations Committee meeting at Ministerial level, Montreal, December 1988, MTN.GNG/13, 22 November 1988, at 54, 62. See also Trade Negotiations Committee meeting at Ministerial level, Montreal, December 1988, MTN.TNC/7(MIN), 9 December 1988, at 30.

<sup>21</sup> Montreal Meeting of the Trade Negotiations Committee, NUR 023, 14 December 1988. See also Mid-Term Meeting, MTN.TNC/11, 21 April 1989, at 28.

<sup>22</sup> Improvements to the GATT Dispute Settlement Rules and Procedures, Decision of 12 April 1989, L/6489, 13 April 1989, at 5.

<sup>23</sup> Negotiating Group on Dispute Settlement, ‘GATT dispute settlement system’, Note by the Secretariat (Revision), MTN.GNG/NG13/W/4/Rev.1, 10 November 1989, at 20. Regarding dispute settlement provisions for specific areas, see e.g.: Negotiating Group on MTN, Agreement on Technical Barriers to Trade, MTN.GNG/NG8/W/83/Add.3, 23 July 1990, at 46.

with WTO rules that were not complained of by one of the complaining parties participating in a panel proceeding.<sup>24</sup> This may sound somewhat odd, as it seems to imply that because a report refers to two or more complaining parties, they would be able to retaliate in respect to nullification or impairment suffered by another party or, in other words, be able to transfer the potential to suspend concessions or other obligations among retaliating parties. However, arbitrators on the same dispute dismissed transferring the suspension potential as they held that Members had no right and no need ‘to claim compensation or request authorization to suspend concessions for the nullification or impairment suffered by another WTO Member’.<sup>25</sup> Transferring the suspension potential was also discussed in later reports, and two arbitrator awards allowed it,<sup>26</sup> although it has been consistently denied since 2002.<sup>27</sup> In summary, that leaves the WTO dispute settlement practice without a formulated rationale for Art. 9.2 DSU.

WTO Members have formulated what is probably the most articulated rationale regarding the right to request separate reports: ‘In some cases, a Member would benefit from the clarity that separate reports could provide in leaving no doubt as to which recommendations and rulings applied to it.’<sup>28</sup> This is especially the case when individual complainants have fundamentally different interests in the matter, for example as reflected in their separate and different consultation requests.<sup>29</sup>

In addition, separate reports according to Art. 9.2 DSU can be understood as a means to introduce the possibility of shorter and simpler individual reports that deal not with the arguments and evidence that every party adduced, but only with those related to a certain party, as well as only the findings related to certain parties to the dispute. These practical benefits of shorter reports can be quite significant. In fact, separate reports can be understood as an expression of judicial economy in its broadest sense, since they are shorter and simpler precisely because in each separate report the panel or arbitrator refrains from examining each and every claim made by the other complaining parties.<sup>30</sup>

Regarding not the rationale but the exercise of the right to request separate reports, in *EC – Bananas III* the defending party formally exercised that right even when faced with

<sup>24</sup> *EC – Bananas III*, WTO Panel Reports (WT/DS27/R/ECU, WT/DS27/R/GTM & WT/DS27/R/HND, WT/DS27/R/MEX, WT/DS27/R/USA), para. 7.56. While the reasoning of the Panel may refer to the first sentence of Art. 9.2 DSU, it is not explicitly confined to it.

<sup>25</sup> *EC – Bananas III* (Art. 22.6 DSU), WTO Arbitrator Decision (WT/DS27/ARB), para. 6.14-6.17.

<sup>26</sup> *Brazil – Aircraft* (Art. 22.6 DSU), WTO Arbitrator Decision (WT/DS46/ARB), para. 3.53-3.60, and *US – FSC* (Art. 22.6 DSU), WTO Arbitrator Decision (WT/DS108/ARB), para. 6.10.

<sup>27</sup> *US – 1916 Act (EC)* (Art. 22.6 DSU), WTO Arbitrator Decision (WT/DS136/ARB), para. 5.79, 6.1, 6.13; *US – Offset Act (Byrd Amendment)* (Art. 22.6 DSU), WTO Arbitrator Decision (WT/DS217/ARB/EEC), para. 3.8, 3.14-3.56, 3.128, 3.129, 3.136, 3.137, 3.146, 3.147, 4.2-4.6; *US – Subsidies on Upland Cotton* [Prohibited Subsidies] (Art. 22.6 DSU), WTO Arbitrator Decision (WT/DS267/ARB/1), para. 4.116-4.117, 4.152, 4.199-4.202, 4.244, 4.255, 4.277; *US – Subsidies Upland Cotton* [Actionable Subsidies] (Art. 22.6 DSU), WTO Arbitrator Decision (WT/DS267/ARB/2), para. 4.63-4.92.

<sup>28</sup> Dispute Settlement Body, Minutes of meeting held in the Centre William Rappard on 18 May 2010, WT/DSB/M/283, 23 July 2010, para. 176.

<sup>29</sup> Dispute Settlement Body, Minutes of meeting held in the Centre William Rappard on 23 September 2008, WT/DSB/M/256, 14 November 2008, para. 49.

<sup>30</sup> *US – Wool Shirts and Blouses*, WTO Appellate Body Report (WT/DS33/AB/R), chapter VI, at 18. See also Alberto Álvarez-Jiménez, ‘The WTO Appellate Body’s Exercise of Judicial Economy’, *Journal of International Economic Law*, 2009, 12(2): 313-415, at 396-399.

opposition from the complainant.<sup>31</sup> In *US – Offset Act (Byrd Amendment)*, the AB held that the Panel had rightfully denied the defendant’s request for separate reports because the untimely request would have impaired the rights of the affected complaining parties and, in addition, the party that had requested separate reports had not claimed any prejudice from the denial of its request.<sup>32</sup> The argumentation regarding prejudice is especially interesting, since it means that the right to request separate reports is qualified. Not surprisingly, the defendant expressed concern about the requirement of showing prejudice.<sup>33</sup> About seven years later, in 2010, Members discussed a proposal according to which, if participants requested separate reports, the AB would consider if there were good reasons to issue separate reports.<sup>34</sup> Several Members expressed their dissatisfaction precisely because that proposal would mean their right to request separate reports would not be unqualified.<sup>35</sup> In my view, it seems reasonable to argue that the exercise of the right to request separate reports should only be restricted if it impairs the rights of the other parties to the dispute or, more generally, if it undermines the ‘fair, prompt and effective resolution of trade disputes’<sup>36</sup>, or is incompatible with the principle of good faith as enshrined in Art. 3.10 DSU.<sup>37</sup>

#### 4. PARALLEL REPORTS’ MAIN DISADVANTAGES

As mentioned before, separate reports can be clearer, shorter and simpler than a single, lengthier report containing all the arguments, evidence and findings. However, regarding parallel reports, the practice of WTO dispute settlement has partially undone such benefits because the consequence has often been the creation of multiple diverging documents, the analysis of which becomes the dispiriting task of comparing and switching among texts, searching for any relevant differences in wording and meaning. Because parallel reports often do not contain clearly recognizable, meticulously differentiated segments with shared content and segments with differing content, readers (including, one is inclined to suppose, WTO Secretariat staff) trying to analyse parallel reports have to carefully compare them so as to detect divergences. This not only means additional time and effort, but also the possibility that some readers may give up and concentrate only on some parallel reports while discarding the rest. In addition, there is the risk of unintended discrepancies between parallel reports (see section 5).

<sup>31</sup> Dispute Settlement Body, Minutes of meeting held in the Centre William Rappard on 8 May 1996, WT/DSB/M/16, 4 June 1996.

<sup>32</sup> *US – Offset Act (Byrd Amendment)*, WTO Appellate Body Report (WT/DS217/AB/R & WT/DS234/AB/R), para. 316–317, see also paras 75 and 96. In addition, also *US – Offset Act (Byrd Amendment)*, WTO Panel Report (WT/DS217/R & WT/DS234/R), paras 6.2–6.5 and 7.3–7.6.

<sup>33</sup> Dispute Settlement Body, Minutes of meeting held in the Centre William Rappard on 27 January 2003, WT/DSB/M/142, 6 March 2003, paras 58–60.

<sup>34</sup> Proposed amendments to the *Working procedures for Appellate Review*, Communication from the Appellate Body, WT/AB/WP/W/10, 12 January 2010.

<sup>35</sup> Dispute Settlement Body, Minutes of meeting held in the Centre William Rappard on 18 May 2010, WT/DSB/M/283, 23 July 2010, paras 83, 87, 92, 116, 126, 131, 146, 159, 167 and 176.

<sup>36</sup> *US – FSC*, WTO Appellate Body Report (WT/DS108/AB/R), para. 166.

<sup>37</sup> *EC – Sardines*, WTO Appellate Body Report (WT/DS231/AB/R), paras 135–152. See also Helger Elisabeth Zeitler, “‘Good Faith’ in the WTO Jurisprudence: Necessary Balancing Element or an Open Door to Judicial Activism?”, *Journal of International Economic Law*, 2005, 8(3): 721–758, at 730–735.

Furthermore, paragraph numeration is often consecutive and independent for each parallel report. As a result, quoting paragraphs with identical content that appear in several parallel reports is unnecessarily cumbersome. For example, eight parallel arbitrators' awards pursuant to Art. 22.6 DSU were issued in *US – Offset Act (Byrd Amendment)*, yet some commentators have focused their quotations on the award regarding the EEC (the reason for singling out this particular report does not seem to rest on any objective ground but presumably on a cultural bias).<sup>38</sup> Thus, scholarly discussion has notoriously gravitated towards the EEC report and has not considered to the same degree certain quite interesting requests, arguments and findings peculiar to the parallel reports, concerning, for example, the concrete requests to suspend concessions or obligations.<sup>39</sup>

To sum up, one main disadvantage of parallel reports are that they are rather cumbersome to read, and often also to quote, and that they increase the risk of discrepancies.

## 5. DIVERGENCES BETWEEN PARALLEL REPORTS

In general terms, parallel reports present three broad categories of divergences. The first relates to planned differences that usually are of great consequence, such as addressing diverging arguments presented by the complaining parties and the defending party's corresponding counterarguments. As parallel reports normally include numerous such differences, readers who limit themselves to reading only one of a series of parallel reports are in danger of missing significant arguments, evidence and findings.

Second, some discrepancies may have been intended, yet should normally be irrelevant. It includes, for example, variations between American English and British English.<sup>40</sup>

The third category refers to discrepancies that one might suppose were unintended or, at least, do not seem to serve a discernible purpose, such as when the syntax or spelling was modified only in some reports. From a reader's perspective, one is inclined to label them as errors. Regarding this category, in general terms, the degree of consistency between parallel reports is actually remarkable, especially considering the length of the reports, their complexity, and the number of people who are directly or indirectly involved with a text by

<sup>38</sup> E.g. Thomas Jürgensen, 'Crime and Punishment: Retaliation under the World Trade Organization Dispute Settlement System', *Journal of World Trade*, 2005, 39(2): 327-340, at 331-334; Holger Spamann, 'The myth of "rebalancing" retaliation in WTO Dispute Settlement practice', *Journal of International Economic Law*, 2006, 9(1): 31-79, at 66-71; WTO, *World Trade Report 2005* (WTO Publications, 2005), at 185-189; Chad P. Bown and Michele Ruta, 'The economics of permissible WTO retaliation', in Chad P. Bown and Joost Pauwelyn (eds.), *The law, economics and politics of retaliation in WTO dispute settlement* (Cambridge University Press, 2010); likewise, see *supra* note 27. In contrast, Sherzod Shadikhodjaev, *Retaliation in the WTO Dispute Settlement System* (Kluwer Law International, 2009), at 91-138, focuses on the report derived from Brazil's complaint, presumably due to alphabetical order considerations.

<sup>39</sup> *US – Offset Act (Byrd Amendment)* (Art. 22.6 DSU), WTO Arbitrator Decisions (WT/DS217/ARB/BRA, WT/DS217/ARB/CHL, WT/DS217/ARB/EEC, WT/DS217/ARB/IND, WT/DS217/ARB/JPN, WT/DS217/ARB/KOR, WT/DS234/ARB/CAN, WT/DS234/ARB/MEX), section I.A.

<sup>40</sup> E.g. compare 'summarised' in *US – 1916 Act (EC)*, WTO Panel Report (WT/DS136/R), para. 6.228, and 'summarized' in *US – 1916 Act (Japan)*, WTO Panel Report (WT/DS162/R), para. 6.289 (see annex F). *US – Continued Suspension*, WTO Panel Report (WT/DS320/R), para. 4.34 and *Canada – Continued Suspension*, WTO Panel Report (WT/DS321/R), para. 4.31, use 'authorised' and 'authorized', respectively (see annex J). *US – Shrimp (Thailand)*, WTO Panel Report (WT/DS343/R), para. 7.3, says 'organisational' while *US – Customs Bond Directive*, WTO Panel Report (WT/DS345/R), para. 7.3, uses 'organizational' (see annex K).

the time of its completion (Members' representatives, panel members/AB members/arbitrators, WTO Secretariat staff, Appellate Body Secretariat staff etc.). It is important to highlight the outstanding congruence between parallel reports and not to overemphasize the faults. Yet, indeed, there are faults.

Some faults are trivial, as when, for example, some minor formal inconsistencies<sup>41</sup> or spelling errors<sup>42</sup> were not removed in all parallel reports. More problematic are differences in syntax or wording.<sup>43</sup> It seems implausible that someone meant to change the spelling, wording or syntax only in some reports. Thus, the hypotheses that someone meant to correct the reports but forgot to correct them all, or that the parallel reports were supervised by different people that failed to adequately harmonize them, would imply that either personal or institutional constraints are accidentally causing discrepancies between texts.

Moreover, additional discrepancies may arise during the translation process, not only due to errors inherent to every human activity, but also because time pressure combined with the sheer length of most reports has made it necessary to often split WTO dispute settlement documents among individual translators. Despite the fact that the WTO's Languages, Documentation and Information Management Division puts great effort into the task of harmonizing the segments produced by different translators, discrepancies are almost inevitable.

In conclusion, parallel reports not only contain deliberate differences, but their discrepancies also make them more divergent than presumably intended. Because, as mentioned in the previous section, divergences are normally not easily identifiable (that is often the case for planned differences and even more so for unintended discrepancies), reading and analysing parallel reports becomes an arduous undertaking. Moreover, differences and discrepancies may go unnoticed, even to thorough readers.

## 6. SYSTEMIC ISSUES

The right to request separate reports has been understood as a tool to protect the rights of the parties (see section 3). Probably as a consequence, Members in general seem not to have considered parallel reports as problematic.

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<sup>41</sup> E.g. compare the quotation of paragraphs in *EC – Bananas III*, WTO Panel Report (WT/DS27/R/ECU), para. 7.87 and *EC – Bananas III*, WTO Panel Report (WT/DS27/R/GTM & WT/DS27/R/HND, WT/DS27/R/MEX and WT/DS27/R/USA), para. 7.87.

<sup>42</sup> E.g. *EC – Export Subsidies on Sugar*, WTO Panel Report (WT/DS266/R), para. 4.238 contains a spelling error that was corrected in *EC – Export Subsidies on Sugar*, WTO Panel Report (WT/DS283/R, WT/DS265/R), para. 4.238.

<sup>43</sup> Just to concentrate on one set of parallel reports, *US – Continued Suspension*, WTO Panel Report (WT/DS320/R), para. 4.52, contains the phrase 'If a WTO Member has taken implementing measures' whereas *Canada – Continued Suspension*, WTO Panel Report (WT/DS321/R), para. 4.49, does not (see annex J). WT/DS320/R, para. 4.227, says 'factors' and WT/DS321/R, para. 4.218, replaces it with 'factor'. WT/DS320/R, para. 4.362, mentions the responding parties while WT/DS321/R, para. 4.356, refers to the defending parties. WT/DS320/R, para. 4.40, and WT/DS321/R, para. 4.37, show syntactic differences. These examples show a few of the many divergences between both reports.

One systemic issue, however, relates to the length and complexity of reports. In general, WTO dispute settlement reports are currently so long<sup>44</sup> and complex that reading them (and arguably producing them) has become very demanding and time consuming. Surely not every person with an interest in WTO law, be it scholars, practitioners or the general public, has enough time and motivation to read a 1087-page panel report.<sup>45</sup> Arguably the best answer would be issuing shorter reports. Yet in practice parallel reports run in the opposite direction, as readers have to read several reports instead of just one.

Besides length, complexity is also a problem. Producing any text of great length almost inevitably causes discrepancies and errors. Therefore, a sensible goal would be to try to simplify reports, as long as it does not impinge on quality. Yet issuing not one but several partially different, parallel versions increases complexity. Parallel reports result in strenuous work for editors and readers alike.

If this trend toward complex and long reports continues, more people may take a look at the table of contents and pick certain passages of the report to read thoroughly while skipping the rest; yet, often, to fully understand the legal arguments and reasoning involved one must read more than just selected excerpts. It is also possible that the reports' complexity and length prevents some people from reading them at all. Thus, more complex and longer reports probably mean less people ultimately read and comment on them. There exists a risk of gradually isolating the WTO dispute settlement system from scholars, public officials, the broader public and perhaps even from WTO Members' representatives. Understanding WTO dispute settlement reports will probably always require some degree of expertise. Yet there is no apparent point in narrowing the circle of interested people. After all, the WTO would not be issuing top-notch introductory brochures if it were not trying to reach the public at large. In summary, while parallel reports are obviously not the only factor that can affect the accessibility of WTO dispute settlement reports, the way they are implemented can marginally increase or decrease it.

Furthermore, unintended discrepancies can have systemic effects. Trivial as they may seem, they really should not be dismissed so swiftly. Even minor divergences in wording can cause legal uncertainty and one simply cannot rule out completely the possibility that minor textual discrepancies may one day have concrete legal and economic consequences, or cause new disputes.

As mentioned above, consecutive and independent paragraph numeration can also have systemic effects, as scholars may tend to quote only one report from each series, thereby reducing the scrutiny of the other parallel reports.

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<sup>44</sup> Matthew Kennedy, 'Why Are WTO Panels Taking Longer? And What Can Be Done About It?', *Journal of World Trade*, 2011, 45(1): 221-253, at 242-245.

<sup>45</sup> That is the case of *EC – Approval and Marketing of Biotech Products*, WTO Panel Report (WT/DS291/R, WT/DS292/R, WT/DS293/R). In addition, it contains a table of contents (36 pages), a 14-page preface with tables and abbreviations and 61 pages of annexes.

Consequently, it would arguably be welcome if the WTO devised ways to simplify the dispute settlement reports without forfeiting quality. Improving parallel reports would be a step in this direction.

## 7. PROPOSALS FOR IMPROVING PARALLEL REPORTS

As already said, from a reader's perspective, the first main disadvantage of parallel reports relates to the fact that often segments with shared, and segments with differing, content are not clearly recognizable. Thus, readers arguably have to read the whole set and compare parallel reports. The required effort might increase the probability that some readers prefer to read only one report and not consider the rest. This, in turn, might mean a less informed and, hence, poorer discussion of the reports. The second main drawback concerns faults that occur when producing parallel reports. And, finally, quoting passages can be quite unwieldy when paragraph numeration is divergent among parallel reports.

Numerous possibilities exist to improve parallel reports. They include the following, in order of preference:

Firstly, one way to cope with the downsides of parallel reports is to issue a single document constituting several separate reports.<sup>46</sup> On occasion, panels and the AB have indicated on the cover page which sections are common to all reports and which sections are not.<sup>47</sup> This is arguably the best method because it is relatively easy to implement and quite straightforward for the reader. However, it should be stressed that the document would contain different reports and each complaining party should therefore be allowed to exercise its rights for its own report only, as regards, for example, asking for adoption of the report,<sup>48</sup> appealing findings, requesting consultations to develop a mutually acceptable compensation, etc. In other words, parallel reports issued in one document are still separate reports and, as WTO Members have said (see section 3), there needs to be clarity regarding which recommendations and rulings apply to each party.<sup>49</sup>

Secondly, another solution could be issuing parallel reports not as one document, but split into several documents with some containing shared segments, while others include the parts that differ (such as sections specific to the individual parties to the dispute). Some panels have already done something along these lines. For example, the panel report in *EC –*

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<sup>46</sup> It should be noted that at least one Member has expressed reservations on issuing separate reports in a single document: Dispute Settlement Body, Minutes of meeting held in the Centre William Rappard on 18 May 2010, WT/DSB/M/283, 23 July 2010, para. 102.

<sup>47</sup> E.g. *US – COOL*, WTO Panel Reports, WT/DS384/R and WT/DS386/R, *Philippines – Distilled Spirits*, WTO Appellate Body Reports, WT/DS396/AB/R and WT/DS403/AB/R, *China – Raw Materials*, WTO Appellate Body Report (WT/DS394/AB/R, WT/DS395/AB/R and WT/DS398/AB/R) and *Canada – Renewable Energy and Canada – Feed-In Tariff Program*, WTO Panel Reports (WT/DS412/R and WT/DS426/R). An interesting case regards *Canada – Wheat Exports and Grain Imports*, WTO Panel Reports (WT/DS276/R), as two panels were successfully established; at the request of the parties, the separate reports were eventually issued as a single document.

<sup>48</sup> Dispute Settlement Body, Minutes of meeting held in the on 27 January 2003, WT/DSB/M/142, 6 March 2003, para. 61.

<sup>49</sup> Dispute Settlement Body, Minutes of meeting held in the Centre William Rappard on 18 May 2010, WT/DSB/M/283, 23 July 2010, para. 176.

*Trademarks and Geographical Indications*<sup>50</sup> left the arguments of the parties and the arguments of the third parties to the annexes (unfortunately, it does not explicitly mention where the annexes differ). The panel report in *US – 1916 Act (Japan)*<sup>51</sup> also indicates that parts III and IV, including the claims and main arguments as well as the third party submissions, are included in annexes (however, the parallel report *US – 1916 Act (EC)*<sup>52</sup> consists of one single document that contains inter alia the claims and main arguments, and the third party submissions). This approach is not too difficult to implement. However, to yield best results, the reports should highlight if and where differing documents share some content.

Thirdly, whenever the solutions mentioned above are not feasible and several parallel reports are issued, paragraph numeration should be kept as homogenous as possible among parallel reports by, for example, leaving blank those paragraphs not used in some reports but used in others. This would be especially helpful for simplifying report quotations. For instance, the *EC – Bananas III* panel reports used, to a great extent, homogenous paragraph numeration. Those regarding Ecuador, Mexico and the United States<sup>53</sup> mention that paragraphs 7.128 – 7.130 and 7.216 – 7.219 (among others) were left blank, but were used in the panel report regarding Guatemala and Honduras<sup>54</sup>, just as paragraphs 7.274 – 7.397 were used in the former but not in the latter (see annex A). (Yet those same reports fail to mention there were differences among paragraphs used in all reports, such as 7.399, and also the Mexico report, for example, does not mention that paragraph 6.11 was used in the other three reports). This contrasts with parallel reports where each report's paragraph numeration is strictly consecutive and independent, thereby making it unnecessarily cumbersome to spot different content and to quote certain identical passages that appear in more than one report.<sup>55</sup>

Fourthly, parallel reports could explicitly mention where they differ. It would arguably be best to combine this approach with homogenous paragraph numeration.

Fifthly, when none of the above is possible, arguably the only practical means for a methodical analysis of parallel reports is to make comparative tables (see the annexes to this article).

Sixthly, in regard to quotations, one, although admittedly cumbersome, option is to develop a standardized quotation system when working in depth with parallel reports.<sup>56</sup>

<sup>50</sup> *EC – Trademarks and Geographical Indications*, WTO Panel Reports, WT/DS174/R and WT/DS290/R.

<sup>51</sup> *US – 1916 Act (Japan)*, WTO Panel Report, WT/DS162/R.

<sup>52</sup> *US – 1916 Act (EC)*, WTO Panel Report, WT/DS136/R.

<sup>53</sup> *EC – Bananas III (Ecuador)*, WTO Panel Report, WT/DS27/R/EQU; *EC – Bananas III (Mexico)*, WTO Panel Report, WT/DS27/R/MEX; *EC – Bananas III (United States)*, WTO Panel Report, WT/DS27/R/USA.

<sup>54</sup> *EC – Bananas III (Guatemala and Honduras)*, WTO Panel Report, WT/DS27/R/GTM.

<sup>55</sup> E.g. *US – Offset Act (Byrd Amendment)* (Art. 22.6 DSU), WTO Arbitrator Decisions, WT/DS217/BRA, WT/DS217/CHL, WT/DS217/EEC, WT/DS217/IND, WT/DS217/JPN, WT/DS217/KOR, WT/DS234/CAN and WT/DS234/MEX.

<sup>56</sup> For a standardised quotation proposal for the arbitrators' reports in *EC – Hormones* (Art. 22.6 DSU), WTO Arbitrator Decisions, WT/DS26/ARB and WT/DS48/ARB and *US – Offset Act (Byrd Amendment)* (Art. 22.6 DSU), WTO Arbitrator Decisions, WT/DS217/ARB/BRA, WT/DS217/ARB/CHL, WT/DS217/ARB/EEC, WT/DS217/ARB/IND, WT/DS217/ARB/JPN, WT/DS217/ARB/KOR, WT/DS234/ARB/CAN, WT/DS234/ARB/MEX. See Jaime Tijmes-Ihl, 'Die Aussetzung von Zugeständnissen im



Lastly, another solution would be to stop issuing parallel reports altogether. This, however, is too radical, as one would have to renounce to the above mentioned benefits of parallel reports, i.e. clarity, brevity and simplicity.

To sum up the proposed solutions, the suggestion to split parallel reports into several documents, and the suggestion to issue a single document that contains several separate reports, while being mutually incompatible, do stand as interesting and the most welcome of improvements introduced by panels and the AB. They are relatively easy to implement and have already been applied. As a consequence, they stand out as quite realistic ways to fulfil the potential of parallel reports. Whenever these suggestions are not feasible, homogenous paragraph numeration and a precise indication of where parallel reports differ represent the bare minimum that panels, arbitrators and the AB, one hopes, should observe. In this respect, homogenous paragraph numeration in particular (which has already been tried in a number of parallel reports) can be done with a very reasonable effort. Comparative tables and standardized quotation systems arguably remain the last resorts for the rather desperate reader.

## 8. CONCLUSIONS

From a descriptive point of view, and taking the relation between disputes and reports as a starting point, WTO dispute settlement reports can be classified as free standing or parallel, while reports of both kinds can settle one, or more than one, dispute. This article has dealt, for the most part, with parallel reports.

The legal foundation for parallel reports that settle a level in one dispute stems from the procedures for multiple complainants set out in Art. 9 DSU. Art. 9.2 states that panels shall submit separate reports if a party to the dispute so requests (in practice, WTO arbitrators pursuant to Art. 22.6 DSU have also issued parallel reports). While WTO dispute settlement practice has not so far formulated a compelling rationale for Art. 9.2 DSU, it possibly rests on the assumption that, in disputes with multiple complainants, parties benefit from greater clarity regarding the recommendations and rulings that apply to them. In addition, each separate report can be more succinct and simple than one single report that deals with the arguments, evidence and findings related to all the parties. These important advantages make parallel reports a useful improvement.

However, WTO dispute settlement practice has not taken full advantage of the parallel reports' potential, leaving it instead to the reader to discover divergences (some planned, some presumably unintended) that might be of some consequence, such as different topics raised, syntax discrepancies, etc. This, in turn, makes analysing these reports a demanding task. Moreover, paragraph numeration is often consecutive and independent for each parallel report and, as a result, quoting certain passages from several parallel reports is unnecessarily awkward.

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WTO-Streitbeilegungsverfahren, Dissertation, 2012 <<http://nbn-resolving.de/urn:nbn:de:bsz:21-opus-60951>>, annexes 1 and 2.

This raises some systemic issues. Some readers seem to limit themselves to reading and quoting from one report from each series of parallel reports, thus putting themselves at risk of not adequately considering all the topics discussed. In addition, minor discrepancies should normally not be decisive, yet they marginally increase legal uncertainty.

Most WTO dispute settlement reports are rather long and complex. Issuing parallel reports instead of a single report increases the overall document length and complexity required to settle a dispute. As long as the quality of the reports does not suffer, it seems sensible to try to issue parallel reports in a way that does not unnecessarily increase their overall length and complexity. Proposals for improving parallel reports include issuing a single document constituting several separate reports, splitting parallel reports into several documents, using homogenous paragraph numeration for parallel reports, and explicitly mentioning where parallel reports differ. Panels, the AB, and arbitrators have sometimes applied these methods and that is a welcome development. It is hoped that with these improvements parallel reports might better fulfil their potential.

## 9. ANNEXES

The annexes contain tables with overviews for (to the best of my knowledge) all parallel WTO dispute settlement reports issued as of 19 December 2012. The tables show where they share some content and where they diverge. It becomes apparent that the differences are spread rather irregularly throughout the documents, thus requiring painstaking detective work to find them.

In annexes A to K, paragraphs are displayed in three ways. Firstly, those that are identical or that have negligible differences are presented in the same row. Differences deemed to be negligible in this article mainly involve parties to the disputes, footnotes, numbers and spelling, as well as variations in syntax that do not seem to have a substantial bearing on the paragraph's meaning. Secondly, paragraphs with different yet closely related content are displayed on a different line within the same row.<sup>57</sup> Thirdly, paragraphs with relevant differences are placed in different rows. In addition, when a paragraph's counterpart is added in parentheses, it means it is out of consecutive order.

Annex L contains a statistical overview that shows considerable differences among disputes as regards percentages of identical, closely related and substantially different paragraphs. Shared identical content varies between over 86% (annex C) and 5% (annexes E and F). In some cases, a considerable amount of content is shared, albeit modified (26% for annex B), whereas annex C shows that almost all sharing was literal (less than 1% of closely related yet different content). Some parallel reports share a wide base of identical or related content, such as in annex H (77+9=86%) and especially annex C (at least 86%), while other parallel reports share considerably less content, such as annexes E (5+16=21%) and F

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<sup>57</sup> Some paragraphs show a correspondence with more than one paragraph in the parallel report, such as *EC – Hormones*, WTO Panel Report, WT/DS26/R/USA, paras 4.1-4.2, and *EC – Hormones (Canada)*, WTO Panel Report, WT/DS48/R/CAN, para. 4.2 (see annex A).

(5+12=17%, respectively). Parallel reports share a certain nucleus and some differ strongly on how much additional content each report includes (22% and 6% for the reports in annex B, between 0 and 8% in annex H). Another relevant difference relates to the amount of parallel reports, ranging from two to eight (annex H). Moreover, the two cases with more than two parallel reports show different approaches: while annex C can be roughly described as a common nucleus with additional paragraph clusters differently combined and shared by individual parallel reports, annex H can rather be described as a common nucleus with additional paragraphs that were modified or added to meet the needs of specific reports. Overall, these figures show that the phenomenon of parallel reports is quite complex and involves multifarious manifestations.

The difference between free standing and parallel reports that settle a level in more than one dispute is not always clear-cut. For example, the panel reports on *EC – Export Subsidies on Sugar* (WT/DS265/R, WT/DS266/R and WT/DS283/R) differ only in the cover page (complaining party, document symbol, document ID number), the pages' header, a typo correction in para. 4.238 and the complaining party mentioned in para. 8.4. Because such differences are considered as negligible in this article's annexes, these reports are not regarded as parallel. The same applies, for example, to the panel reports on *EC – Chicken Cuts* (WT/DS269/R and WT/DS286/R), as they differ only in the cover page and in the complaining party mentioned in para. 8.1, and to the Appellate Body reports on *US – Continued Suspension* (WT/DS320/AB/R) and *Canada – Continued Suspension* (WT/DS321/AB/R), which differ in the cover page and in the complaining party mentioned in the first page and in the findings and conclusions section.

The difference between free standing reports that settle a level in one dispute and parallel reports that settle a level in more than one dispute can also be complex. For example, the panel reports on *US – Countervailing Duty Investigation on DRAMs* (WT/DS296/R) and *EC – Countervailing Measures on DRAM Chips* (WT/DS299/R) contain a handful of very similar passages (for example, the summary of the dispute's chronology in the introduction and certain paragraphs in some annexes). However, in this particular case the similarities are so few that they are considered to be free standing.

It should be noted that the panel reports on *EC – Bananas III* (Art. 21.5 DSU – EC) (WT/DS27/RW/EEC) and *EC – Bananas III* (Art. 21.5 DSU – Ecuador) (WT/DS27/RW/ECU) show no relevant parallels despite the fact that they settle the same level in a single dispute and were issued simultaneously.

On a final note, hopefully these annexes may also be helpful to those who want to thoroughly study these disputes without having to spend time and resources looking for divergences among the reports.

**A. EC – Hormones (Panel)**

The reports compared are:

- European Communities – Measures Concerning Meat and Meat Products (Hormones). Complaint by the United States. Report of the Panel. Circulated on 18 August 1997. WT/DS26/R/USA.
- European Communities – Measures Concerning Meat and Meat Products (Hormones). Complaint by Canada. Report of the Panel. Circulated on 18 August 1997. WT/DS48/R/CAN.

United States (WT/DS26/R/USA)	Canada (WT/DS48/R/CAN)
<b>INTRODUCTION</b>	
1.1 – 1.2	1.1 – 1.2
1.3	
1.4 – 1.8	1.3 – 1.7
1.9	
1.10	1.8
<b>FACTUAL ASPECTS</b>	
<b>THE MEASURES AT ISSUE</b>	
2.1	2.1
2.2 – 2.4	2.2 – 2.4
2.5	2.5
<b>THE SUBSTANCES AT ISSUE (HORMONES)</b>	
2.6	2.6
2.7 – 2.9	2.7 – 2.9
2.10	2.10
<b>THE CODEX ALIMENTARIUS STANDARDS</b>	
2.11	2.11
2.12 – 2.13	2.12 – 2.13
2.14	2.14
2.15	2.15
2.16 – 2.18	2.16 – 2.18
2.19	2.19
2.20 – 2.25	2.20 – 2.25
<b>HISTORY OF EVENTS</b>	
2.26 – 2.27	2.26 – 2.27
2.28 – 2.29	2.28 – 2.29
2.30 – 2.31	2.30 – 2.31
2.32 – 2.33	2.32 – 2.33
<b>HISTORY OF EVENTS UNDER THE GATT</b>	
2.34	
<b>CLAIMS OF THE PARTIES</b>	
3.1 – 3.3	3.1 – 3.4

United States (WT/DS26/R/USA)	Canada (WT/DS48/R/CAN)
3.4	3.5
3.5	
3.6	3.6
3.7	3.7
<b>ARGUMENTS OF THE PARTIES</b>	
<b>RELATIONSHIP BETWEEN GATT [1994] AND THE SPS AGREEMENT</b>	
	4.1
4.1 – 4.2	4.2
4.3 – 4.4	4.3
4.5 – 4.6	4.4 – 4.5
<b>THE SPS AGREEMENT</b>	
4.7	
4.8	(4.25)
4.9 – 4.13	4.6 – 4.14
4.14 – 4.16	4.15 – 4.17
4.17 – 4.18	4.18
(4.36)	4.19
(4.40)	4.20
	4.21 – 4.24
(4.8)	4.25
	4.26 – 4.32
4.19 – 4.22	4.33 – 4.36
	4.37
(4.65)	4.38
(4.66)	4.39
	4.40
4.23	4.41
4.24 – 4.25	
4.26	(4.44), (4.50)
4.27 – 4.35	
4.36	(4.19)
4.37 – 4.39	
4.40	(4.20)
4.41 – 4.42	4.42 – 4.43
(4.26)	4.44

Parallel Reports in the WTO Dispute Settlement

United States (WT/DS26/R/USA)	Canada (WT/DS48/R/CAN)
4.43	4.45
4.44 – 4.56	
4.57	(4.56), (4.82), (4.120)
4.58 – 4.62	
	4.46 – 4.49
(4.26)	4.50
	4.51
4.63 – 4.64	
4.65	(4.38)
4.66	(4.39)
4.67 – 4.68	
4.69	(4.238)
4.70	(4.238)
4.71 – 4.72	
	4.52
(5.16)	4.53
	4.54 – 4.55
(4.57), (4.93 – 4.94)	4.56
(4.84), (4.237)	4.57
	4.58 – 4.59
(4.84)	4.60
4.73 – 4.78	
	4.61 – 4.65
(4.108)	4.66
(4.80), (4.131)	4.67
4.79	4.68
4.80	(4.67)
4.81 – 4.83	
	4.69 – 4.70
(4.120)	4.71
	4.72 – 4.75
4.84	(4.87), (4.57), (4.60)
4.85	4.76
4.86 – 4.89	
4.90	(4.82)
4.91 – 4.92	
	4.77 – 4.81
4.93	(4.56)

United States (WT/DS26/R/USA)	Canada (WT/DS48/R/CAN)
4.94	(4.56)
4.95 – 4.96	
4.97, (4.57), (4.90)	4.82
4.98	4.83
(4.159)	4.84
4.99 – 4.101	
4.102	4.85
4.103	
4.104	4.86
4.105 – 4.107	
4.108	(4.66), (4.215)
(4.84)	4.87
	4.88 – 4.114
(4.116)	4.115
	4.116 – 4.119
(4.57)	4.120
	4.121
4.109 – 4.113	
	4.122 – 4.124
4.114	4.125 – 4.126
4.115	
4.116	(4.115)
4.117	
	4.127 – 4.128
(4.179)	4.129
	4.130
(4.228 – 4.230)	4.131
	4.132 – 4.147
4.118	4.148
	4.149
4.119	
4.120	(4.71), (4.154)
4.121 – 4.125	
4.126	4.150
4.127 – 4.129	4.151
(4.120), (4.134)	4.154
	4.155 – 4.157
4.130	4.158

Parallel Reports in the WTO Dispute Settlement

United States (WT/DS26/R/USA)	Canada (WT/DS48/R/CAN)
4.131	(4.67)
4.132 – 4.133	
4.134	(4.154)
4.135 – 4.142	
	4.159
4.443	4.160 – 4.161
4.144 – 4.148	4.162 – 4.166
4.149 – 4.151	
4.152	(5.32)
4.153 – 4.158	
4.159	(4.84)
4.160 – 4.164	
	4.167 – 4.168
(4.192)	4.169
	4.170 – 4.171
4.165	4.172
4.166	
	4.173
4.167 – 4.168	
	4.174 – 4.175
4.169	4.176
4.170	
4.171	
	4.177 – 4.178
4.172 – 4.174	
	4.179 – 4.182
4.175 – 4.177	
	4.183 – 4.184
	4.185
4.178	
4.179	(4.129)
4.180	
4.181	4.186
4.182 – 4.191	
4.192	(4.169)
4.193	
	4.187
4.194	
	4.188
	4.189 – 4.190
4.195 – 4.196	
	4.191 – 4.207
4.197	
	4.208
4.198	
4.199	
	4.209
4.200 – 4.201	
4.202	
	4.210
4.203	
	4.211 – 4.213



United States (WT/DS26/R/USA)	Canada (WT/DS48/R/CAN)
4.204 – 4.207	
	4.214
(4.108)	4.215
	4.216
4.208 – 4.212	4.217 – 4.221
4.213 – 4.217	
	4.222 – 4.237
(4.69), (4.70)	4.238
	4.239 – 4.277
4.218	4.278
	4.279 – 4.305
4.219 – 4.227	
4.228 – 4.230	(4.131)
4.231 – 4.236	
4.237	(4.57)
	4.306 – 4.312
4.238 – 4.239	
AGREEMENT ON TECHNICAL BARRIERS TO TRADE	
4.240 – 4.244	
	4.313 – 4.320
GATT [1994]	
4.245 – 4.251	
	4.321 – 4.335
4.252 – 4.253	4.336 – 4.337
4.254	4.338 – 4.339
	4.340 – 4.341
4.255	4.342
	4.343 – 4.344
4.256	4.345 – 4.346
4.257	4.347
	4.348 – 4.353
4.258 – 4.268	
	4.354 – 4.357
NULLIFICATION AND IMPAIRMENT	
	4.358 – 4.370
THIRD PARTIES SUBMISSION [SUBMISSIONS]	
(1) AUSTRALIA	
	5.1
5.1 – 5.6	5.2 – 5.7
5.7	5.8
5.8	5.9
5.9 – 5.10	5.10 – 5.11
(2) CANADA	
5.11 – 5.15	

Parallel Reports in the WTO Dispute Settlement

United States (WT/DS26/R/USA)	Canada (WT/DS48/R/CAN)
5.16	(4.53)
5.17	
(3) (2) NORWAY	
5.18 – 5.20	5.12 – 5.14
5.21 – 5.22	5.15 – 5.16
(4) (3) NEW ZEALAND	
5.23 – 5.28	5.17 – 5.22
	(4) UNITED STATES
	5.23 – 5.31
(4.152)	5.32
	5.33 – 5.46
PANEL'S CONSULTATION WITH SCIENTIFIC EXPERTS	
6.1	
6.2 – 6.54	6.1 – 6.53
6.55	6.54
6.56 – 6.241	6.55 – 6.240
INTERIM REVIEW	
7.1	7.1
7.2	7.2
7.3	7.3
7.4 – 7.5	7.4 – 7.5
7.6	7.6
7.7	7.7
7.8 – 7.10	7.8 – 7.10
7.11	7.11
FINDINGS	
CLAIMS OF THE PARTIES	
8.1	8.1
8.2	8.2
8.3 – 8.4	8.3 – 8.4
ORGANIZATIONAL ISSUES	
8.5 – 8.6	8.5 – 8.6
8.7	8.7
8.8	8.8
8.9 – 8.11	8.9 – 8.11
8.12 – 8.13	8.12 – 8.13
	8.14 – 8.17
8.14 – 8.15	8.18 – 8.19
	8.20
GENERAL INTERPRETATIVE ISSUES	
8.16	8.21

United States (WT/DS26/R/USA)	Canada (WT/DS48/R/CAN)
8.17 – 8.18	
8.19	8.22
8.20 – 8.33	8.23 – 8.36
8.34	8.37
8.35 – 8.42	8.38 – 8.45
<b>THE SPS AGREEMENT</b>	
8.43 – 8.48	8.46 – 8.51
8.49	
	8.52
8.50 – 8.70	8.53 – 8.73
8.71	
	8.74
8.72 – 8.80	8.75 – 8.83
8.81	8.84
8.82 – 8.149	8.85 – 8.152
8.150	
	8.153
8.151 – 8.170	8.154 – 8.173
8.171	8.174
8.172 – 8.174	8.175 – 8.177
8.175	8.178
8.176 – 8.177	8.179 – 8.180
8.178	8.181
8.179	8.182
8.180	8.183
8.181 – 8.184	8.184 – 8.187
8.185	8.188
8.186 – 8.204	8.189 – 8.207
8.205	8.208
8.206 – 8.218	8.209 – 8.221
8.219	8.222
8.220	8.223
8.221	8.224
8.222	8.225
8.223 – 8.226	8.226 – 8.229
8.227	8.230
8.228 – 8.229	8.231 – 8.232
8.230	8.233
8.231 – 8.234	8.234 – 8.237
8.235	8.238
8.236 – 8.239	8.239 – 8.242
8.240	8.243

Parallel Reports in the WTO Dispute Settlement

United States (WT/DS26/R/USA)	Canada (WT/DS48/R/CAN)
8.241 – 8.244	8.244 – 8.247
8.245 – 8.252	8.248 – 8.255
8.253	8.256
8.254 – 8.261	8.257 – 8.264
8.262	8.265
8.263 – 8.266	8.266 – 8.269
8.267 – 8.269	8.270 – 8.272
8.270 – 8.271	8.273 – 8.274
ARTICLES I [III] AND III [XI] OF GATT	
8.272 – 8.273	8.275 – 8.276
	CLAIM OF NULLIFICATION AND IMPAIRMENT UNDER ARTICLE XXIII:1(B) OF GATT
	8.277
F) CONCLUDING REMARKS	
8.274	8.278
CONCLUSIONS	
9.1 – 9.2	9.1 – 9.2
Annex	Annex

**B. EC – Hormones (Art. 22.6 DSU)**

The decisions compared are:

- European Communities – Measures Concerning Meat and Meat Products (Hormones). Original complaint by the United States. Recourse to Arbitration by the European Communities under Article 22.6 of the DSU. Circulated on 12 July 1999. WT/DS26/ARB.
- European Communities – Measures Concerning Meat and Meat Products (Hormones). Original complaint by Canada. Recourse to Arbitration by the European Communities under Article 22.6 of the DSU. Circulated on 12 July 1999. WT/DS48/ARB.

United States (WT/DS26/ARB)	Canada (WT/DS48/ARB)
INTRODUCTION	
1	1
2 – 6	2 – 6
PRELIMINARY ISSUES	
THIRD-PARTY RIGHTS	
7	7
BURDEN OF PROOF AND THE ROLE OF ARBITRATORS UNDER ARTICLE 22 OF THE DSU	
8 – 9	8 – 9
10	10
11 – 12	11 – 12
PRODUCT COVERAGE OF THE [US] [CANADIAN] PROPOSAL TO SUSPEND CONCESSIONS	
13	13
14 – 21	14 – 21
22 – 23	
CALCULATION OF THE LEVEL OF NULLIFICATION AND IMPAIRMENT CAUSED BY THE EC HORMONE BAN	
SUMMARY OF THE PARTIES' BASIC METHODOLOGIES	
24 – 25	22 – 23
26 – 30	
	24 – 28
31	29
	30
32	31
33	32
GENERAL APPROACH OF THE ARBITRATORS	
34 – 35	33 – 34
GUIDELINES FOR THE CALCULATION OF NULLIFICATION AND IMPAIRMENT	
36 – 37	35 – 36
38 – 44	37 – 43
THE VALUE OF 'CURRENT EXPORTS'	
45 – 47	
D) NULLIFICATION AND IMPAIRMENT IN RESPECT OF HIGH QUALITY BEEF	
48	44
49 – 53	
54 – 56	45 – 47
57 – 58	48 – 49
59	

Parallel Reports in the WTO Dispute Settlement

United States (WT/DS26/ARB)	Canada (WT/DS48/ARB)
	50
60 – 61	51 – 52
62	53
63 – 65	54 – 56
E) NULLIFICATION AND IMPAIRMENT IN RESPECT OF EDIBLE BEEF OFFAL	
66	57
67 – 68	58 – 59
69 – 71	60 – 62
72	63
73 – 76	
	64 – 66
77	
78	67
E) TOTAL NULLIFICATION AND IMPAIRMENT	
79	68
ASSESSMENT OF THE PROPOSED LEVEL OF SUSPENSION OF CONCESSIONS	
80	69
81	70
82	71
AWARD OF THE ARBITRATORS	
83 – 84	72 – 73
Annex I	Annex I
Annex II	Annex II

**C. EC – Bananas III (Panel)**

The reports compared are:

- European Communities – Regime for the Importation, Sale and Distribution of Bananas. Complaint by the United States. Report of the Panel. Circulated on 22 May 1997. WT/DS27/R/USA.
- European Communities – Regime for the Importation, Sale and Distribution of Bananas. Complaint by Ecuador. Report of the Panel. Circulated on 22 May 1997. WT/DS27/R/ECU.
- European Communities – Regime for the Importation, Sale and Distribution of Bananas. Complaint by Guatemala and Honduras. Report of the Panel. Circulated on 22 May 1997. WT/DS27/R/GTM and WT/DS27/R/HND.
- European Communities – Regime for the Importation, Sale and Distribution of Bananas. Complaint by Mexico. Report of the Panel. Circulated on 22 May 1997. WT/DS27/R/MEX.

United States	Ecuador	Guatemala and Honduras	Mexico
INTRODUCTION			
1.1 – 1.7	1.1 – 1.7	1.1 – 1.7	1.1 – 1.7
PROCEDURAL ISSUES			
2.1 – 2.46	2.1 – 2.46	2.1 – 2.46	2.1 – 2.46
FACTUAL ASPECTS			
3.1 – 3.36	3.1 – 3.36	3.1 – 3.36	3.1 – 3.36
MAIN ARGUMENTS			
4.1 – 4.739	4.1 – 4.739	4.1 – 4.739	4.1 – 4.739
ARGUMENTS PRESENTED BY THIRD PARTIES			
5.1 – 5.139	5.1 – 5.139	5.1 – 5.139	5.1 – 5.139
INTERIM REVIEW			
6.1 – 6.10	6.1 – 6.10	6.1 – 6.10	6.1 – 6.10
6.11	6.11	6.11	
FINDINGS			
7.1 – 7.2	7.1 – 7.2	7.1 – 7.2	7.1 – 7.2
ORGANIZATIONAL ISSUES			
7.3 – 7.12	7.3 – 7.12	7.3 – 7.12	7.3 – 7.12
PRELIMINARY ISSUES			
7.13 – 7.58	7.13 – 7.58	7.13 – 7.58	7.13 – 7.58
7.59	7.59	7.59	7.59
7.60	7.60	7.60	7.60
SUBSTANTIVE ISSUES			
7.61 – 7.118	7.61 – 7.118	7.61 – 7.118	7.61 – 7.118
		7.119	
7.120 – 7.127	7.120 – 7.127	7.120 – 7.127	7.120 – 7.127
		7.128 – 7.130	
7.131 – 7.136	7.131 – 7.136	7.131 – 7.136	7.131 – 7.136
		7.137 – 7.141	
7.142 – 7.164	7.142 – 7.164	7.142 – 7.164	7.142 – 7.164
7.165	7.165	7.165	7.165
7.166 – 7.169	7.166 – 7.169	7.166 – 7.169	7.166 – 7.169

Parallel Reports in the WTO Dispute Settlement

United States	Ecuador	Guatemala and Honduras	Mexico
7.170	7.170	7.170	7.170
7.171 – 7.204	7.171 – 7.204	7.171 – 7.204	7.171 – 7.204
7.205 – 7.212		7.205 – 7.212	7.205 – 7.212
7.213	7.213		7.213
7.214	7.214	7.214	7.214
7.215	7.215	7.215	7.215
		7.216 – 7.219	
7.220 – 7.223	7.220 – 7.223	7.220 – 7.223	
	7.224 – 7.231	7.224 – 7.231	7.224 – 7.231
7.232	7.232	7.232	
7.233	7.233	7.233	
7.234 – 7.242	7.234 – 7.242	7.234 – 7.242	
7.243	7.243	7.243	
		7.244 – 7.250	7.244 – 7.250
		7.251 – 7.259	
7.260 – 7.263		7.260 – 7.263	7.260 – 7.263
7.264		7.264	7.264
7.265	7.265	7.265	7.265
7.266	7.266	7.266	7.266
	7.267 – 7.273		7.267 – 7.273
7.274 – 7.308	7.274 – 7.308		7.274 – 7.308
			7.309 – 7.311
7.312 – 7.354	7.312 – 7.354		7.312 – 7.354
7.355 – 7.368	7.355 – 7.368		
			7.369 – 7.372
7.373 – 7.374	7.373 – 7.374		7.373 – 7.374
7.375 – 7.380	7.375 – 7.380		
7.381 – 7.388	7.381 – 7.388		7.381 – 7.388
7.389 – 7.393	7.389 – 7.393		
7.394 – 7.397	7.394 – 7.397		7.394 – 7.397
7.398	7.398	7.398	7.398
<b>SUMMARY OF FINDINGS</b>			
7.399	7.399	7.399	7.399
<b>FINAL REMARKS</b>			
8.1 – 8.3	8.1 – 8.3	8.1 – 8.3	8.1 – 8.3
<b>CONCLUSIONS</b>			
9.1	9.1	9.1	9.1
9.2	9.2	9.2	9.2
Annex	Annex	Annex	Annex



**D. EC – Bananas III (Art. 21.5 DSU) (Panel)**

The reports compared are:

- European Communities – Regime for the Importation, Sale and Distribution of Bananas. Second Recourse to Article 21.5 of the DSU by Ecuador. Report of the Panel. Circulated on 7 April 2008. WT/DS27/RW2/ECU.
- European Communities – Regime for the Importation, Sale and Distribution of Bananas. Recourse to Article 21.5 of the DSU by the United States. Report of the Panel. Circulated on 19 May 2008. WT/DS27/RW/USA.

Ecuador (WT/DS27/RW2/ECU)	United States (WT/DS27/RW/USA)
INTRODUCTION	
1.1 – 1.4	
1.5	(1.5)
1.6	(1.6)
1.7	
	1.1
1.8	1.2
1.9 – 1.10	1.3 – 1.4
(1.5)	1.5
(1.6)	1.6
1.11 – 1.12	
	1.7
1.13 – 1.14	1.8 – 1.9
1.15	
1.16	1.10
1.17	
	1.11 – 1.13
1.18	1.14
1.19	
	1.15
FACTUAL ASPECTS	
BACKGROUND	
2.1 – 2.4	2.1 – 2.4
	2.5
2.5 – 2.13	2.6 – 2.14
	2.15
2.14 – 2.20	2.16 – 2.22
	2.23
PRODUCT DESCRIPTION	
2.21 – 2.22	2.24 – 2.25
EUROPEAN COMMUNITIES' LEGAL FRAMEWORK FOR BANANAS IMPORTS	
2.23 – 2.29	
2.30 – 2.39	2.26 – 2.35
2.40	2.36

Parallel Reports in the WTO Dispute Settlement

Ecuador (WT/DS27/RW2/ECU)	United States (WT/DS27/RW/USA)
	2.37
2.41	2.38
2.42 – 2.43	2.39
2.44 – 2.45	2.40 – 2.41
	2.42 – 2.46
<b>EUROPEAN COMMUNITIES' BANANAS MARKET</b>	
2.46	2.47
2.47 – 2.48	2.48 – 2.49
2.49 – 2.50	2.50 – 2.51
2.51 – 2.52	2.52
2.53	2.53
2.54 – 2.63	
	2.54 – 2.63
<b>PANEL AND APPELLATE BODY FINDINGS IN [THE ORIGINAL/PREVIOUS] PROCEEDINGS</b>	
2.64 – 2.70	2.64 – 2.70
	2.71 – 2.72
<b>MEASURES CHALLENGED BY [ECUADOR/THE UNITED STATES] IN THIS DISPUTE</b>	
2.71 – 2.72	
	2.73 – 2.74
<b>SPECIAL AND DIFFERENTIAL TREATMENT</b>	
2.73 – 2.76	
<b>PARTIES' REQUESTS FOR FINDINGS AND RECOMMENDATIONS</b>	
3.1	
	3.1 – 3.2
3.2	3.3
3.3	
	3.4 – 3.5
3.4	3.6
3.5 – 3.6	
	3.7 – 3.8
<b>ARGUMENTS OF THE PARTIES</b>	
4.1 – 4.217	
	4.1 – 4.232
<b>ARGUMENTS OF THE THIRD PARTIES</b>	
5.1	
<b>BELIZE, CAMEROON, CÔTE D'IVOIRE, DOMINICA, DOMINICAN REPUBLIC, [GHANA,] JAMAICA, [MADAGASCAR,] SAINT LUCIA, SAINT VINCENT AND THE GRENADINES, AND SURINAME</b>	
5.2	5.1
5.3	5.2 – 5.3
5.4	5.4
5.5 – 5.6	5.5
5.7 – 5.11	5.6 – 5.10
5.12 – 5.13	
	5.11

Ecuador (WT/DS27/RW2/ECU)	United States (WT/DS27/RW/USA)
5.14 – 5.15	5.12 – 5.13
5.16 – 5.18	
	5.14 – 5.16
5.19	5.17
	B) BELIZE
	5.18 – 5.27
	C) CAMEROON
5.20	
	5.28 – 5.35
5.21	5.36
	5.37 – 5.38
5.22	5.39
5.23 – 5.31	
	5.40 – 5.47
5.32	5.48
5.33 – 5.34	
	5.49 – 5.50
5.35 – 5.36	5.51 – 5.52
	5.53
5.37	5.54
5.38 – 5.39	
5.40	5.55
5.41 – 5.49	
	5.56 – 5.61
5.50	5.62
5.51 – 5.53	
	D) CÔTE D'IVOIRE
5.54 – 5.85	
	5.63 – 5.81
	E) DOMINICAN REPUBLIC
5.86 – 5.89	
	5.82 – 5.88
	F) JAMAICA
5.90 – 5.97	
	5.89 – 5.98
	G) SAINT LUCIA
5.98 – 5.109	
	5.99 – 5.121
	H) SAINT VINCENT AND THE GRENADINES
	5.122 – 5.126
	I) SURINAME
5.110 – 5.117	
	5.127 – 5.150
	J) BRAZIL
5.118 – 5.119	
	5.151 – 5.154
5.120	5.155

Parallel Reports in the WTO Dispute Settlement

Ecuador (WT/DS27/RW2/ECU)	United States (WT/DS27/RW/USA)
5.121 – 5.122	
5.123	5.156
5.124 – 5.127	
	5.157 – 5.169
K) COLOMBIA	
5.128 – 5.152	5.170 – 5.194
5.153	5.195
5.154	5.196
5.155	5.197
5.156	5.198
5.157	5.199
5.158	5.200
5.159 – 5.160	5.201
5.161 – 5.162	
5.163	5.202
5.164 – 5.166	5.203 – 5.205
	5.206
5.167 – 5.168	5.207 – 5.208
5.169 – 5.170	5.209
5.171 – 5.172	5.210 – 5.211
5.173 – 5.175	5.212 – 5.214
5.176	5.215
	L) ECUADOR
	5.216 – 5.224
M) JAPAN	
5.177 – 5.186	
	5.225 – 5.251
NICARAGUA	
5.187 – 5.201	
PANAMA	
5.202 – 5.267	
	N) MEXICO
	5.252 – 5.266
	O) NICARAGUA AND PANAMA
	5.267 – 5.299
M) UNITED STATES	
5.268 – 5.284	
INTERIM REVIEW	
6.1	
	6.1
6.2	
	6.2
6.3 – 6.13	
	6.3 – 6.51
FINDINGS	
ATTEMPTS AT HARMONIZING THE TIMETABLES	
7.1	7.1
7.2	7.2
7.3	

Ecuador (WT/DS27/RW2/ECU)	United States (WT/DS27/RW/USA)
	7.3
7.4 – 7.5	7.4 – 7.5
7.6	7.6
	7.7
7.7	7.8
7.8 – 7.9	7.9
7.10	7.10
	7.11 – 7.12
PRELIMINARY ISSUES RAISED BY THE EUROPEAN COMMUNITIES	
7.11 – 7.48	
	b) ORDER OF THE PANEL'S ANALYSIS
	7.13 – 7.16
	PRELIMINARY OBJECTION OF THE EUROPEAN COMMUNITIES CONCERNING THE ALLEGED LACK OF STANDING AND ARGUMENT REGARDING THE ALLEGED LACK OF NULLIFICATION OR IMPAIRMENT OF BENEFITS TO THE UNITED STATES
	7.17 – 7.38
	PRELIMINARY OBJECTION OF THE EUROPEAN COMMUNITIES CONCERNING WHETHER THE UNITED STATES IS BARRED FROM CHALLENGING THE EUROPEAN COMMUNITIES' BANANAS IMPORT REGIME AS A RESULT OF THE BANANAS UNDERSTANDING SIGNED IN APRIL 2001
	7.39 – 7.75
7.49	7.76
	7.77 – 7.79
7.50 – 7.51	7.80 – 7.81
7.52	7.82
7.53 – 7.55	
	7.83 – 7.84
7.56	7.85
	7.86
7.57 – 7.58	7.87 – 7.88
7.59	7.89
7.60 – 7.61	7.90 – 7.91
7.62 – 7.63	7.92 – 7.93
7.64 – 7.65	7.94 – 7.95
7.66	7.96
7.67	7.97
	7.98 – 7.99
7.68 – 7.70	7.100 – 7.101
7.71 – 7.73	7.102 – 7.104

Parallel Reports in the WTO Dispute Settlement

Ecuador (WT/DS27/RW2/ECU)	United States (WT/DS27/RW/USA)
7.74	7.105
7.75	
	7.106
7.76	7.107
7.77 – 7.82	7.108 – 7.113
7.83	
	7.114
(7.86)	7.115
7.84 – 7.85	
	7.116
7.86	(7.115)
7.87 – 7.88	
	7.117 – 7.118
7.89	
7.90	7.119
7.91 – 7.93	
	7.120 – 7.122
7.94	
	7.123 – 7.126
7.95 – 7.97	
	7.127 – 7.130
7.98 – 7.99	7.131 – 7.132
7.100	
	7.133
7.101	7.134
7.102 – 7.105	
	7.135 – 7.138
7.106	7.139
7.107	
	7.140
7.108	7.141
7.109 – 7.110	
	7.142 – 7.143
7.111	7.144
7.112	
	7.145
7.113 – 7.114	7.146 – 7.147
7.115	
	7.148
7.116	7.149
7.117	
	7.150
7.118 – 7.119	7.151 – 7.152
7.120 – 7.123	
	7.153
7.124	7.154
7.125 – 7.127	
	7.155 – 7.157
7.128	
	7.158 – 7.159
7.129 – 7.130	7.160 – 7.161
7.131	
	7.162
7.132 – 7.134	
	7.163

Ecuador (WT/DS27/RW2/ECU)	United States (WT/DS27/RW/USA)
7.135 – 7.136	7.164 – 7.165
	PRELIMINARY OBJECTION OF THE EUROPEAN COMMUNITIES CONCERNING WHETHER THE COMPLAINT BY THE UNITED STATES FALLS WITHIN THE SCOPE OF ARTICLE 21.5 OF THE DSU
	7.166 – 7.532
	PRELIMINARY OBJECTION OF THE EUROPEAN COMMUNITIES CONCERNING THE LACK OF FORMAL CONSULTATIONS
	7.533 – 7.542
C) [ECUADOR'S/THE UNITED STATES'] CLAIM UNDER ARTICLE I OF THE GATT 1994	
7.137	7.543
7.138 – 7.140	
	7.544 – 7.547
7.141 – 7.142	
	7.548 – 7.549
7.143	7.550
7.144	
	7.551
7.145 – 7.152	7.552 – 7.559
7.153	
	7.560
7.154 – 7.155	7.561 – 7.562
7.156	
	7.563
7.157 – 7.159	
	7.564 – 7.566
7.160 – 7.165	7.567 – 7.572
7.166	
	7.573
7.167	7.574
7.168	
	7.575
7.169 – 7.170	
	7.576 – 7.577
7.171 – 7.176	7.578 – 7.583
7.177 – 7.181	
	7.584 – 7.588
7.182 – 7.185	7.589 – 7.592
7.186	
	7.593
7.187	7.594
7.188	
	7.595
7.189	7.596
7.190 – 7.195	
	7.597 – 7.602
7.196	
7.197 – 7.199	
	7.603 – 7.605
7.200 – 7.201	7.606 – 7.607
D) [ECUADOR'S/THE UNITED STATES'] CLAIM UNDER ARTICLE XIII OF THE GATT 1994	
7.202	7.608

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Ecuador (WT/DS27/RW2/ECU)	United States (WT/DS27/RW/USA)
7.203 – 7.217	
	7.609 – 7.622
7.218	7.623
7.219 – 7.284	
	7.624 – 7.639
7.285	7.640
7.286 – 7.296	7.641 – 7.651
7.297	7.652
7.298 – 7.300	7.653 – 7.655
7.301 – 7.303	7.656 – 7.658
7.304	7.659 – 7.660
	7.661
7.305	7.662
7.306 – 7.320	
	7.663 – 7.668
7.321	7.669
7.322	7.670
7.323	7.671
7.324 – 7.329	7.672 – 7.676
7.330 – 7.331	7.677 – 7.678
7.332	7.679
7.333	7.680
7.334	7.681
7.335	7.682
7.336	7.683
7.337	
7.338 – 7.339	7.684 – 7.685
7.340 – 7.343	7.686 – 7.689
7.344	7.690
	7.691
7.345 – 7.348	7.692 – 7.696
7.349	7.697
7.350	7.698
7.351 – 7.358	
	7.699 – 7.703
7.359 – 7.361	7.704 – 7.706
7.362	7.707
7.363 – 7.365	
7.366	7.708
7.367 – 7.370	
7.371 – 7.374	7.709 – 7.712



Ecuador (WT/DS27/RW2/ECU)	United States (WT/DS27/RW/USA)
7.375 – 7.378	7.713 – 7.716
7.379	7.717
7.380 – 7.382	7.718 – 7.720
E) ECUADOR'S CLAIM UNDER ARTICLE II OF THE GATT 1994	
7.383 – 7.504	
F) FINAL REMARKS	
7.505	
7.506	7.721
7.507 – 7.508	7.722 – 7.723
CONCLUSIONS [AND RECOMMENDATIONS]	
GENERAL CONCLUSIONS	
8.1	
	8.1 – 8.2
8.2 – 8.3	8.3 – 8.4
NULLIFICATION OR IMPAIRMENT OF BENEFITS	
	8.5
8.4	8.6
8.5	
	8.7 – 8.12
	RECOMMENDATION
	8.13
Annex A-1	
	Annex A-1
Annex A-2	
	Annex A-2
Annex A-3	
Annex B-1 – Annex C-2	Annex B-1 – Annex C-2
Annex D1 – Annex D10	

**E. India – Patents (US) (Panel) and India – Patents (EC) (Panel)**

The reports compared are:

- India – Patent Protection for Pharmaceutical and Agricultural Chemical Products. Complaint by the United States. Report of the Panel. Circulated on 5 September 1997. WT/DS50/R.
- India – Patent Protection for Pharmaceutical and Agricultural Chemical Products. Complaint by the European Communities and their member States. Report of the Panel. Circulated on 24 August 1998. WT/DS79/R.

United States (WT/DS50/R)	EC (WT/DS79/R)
INTRODUCTION	
1.1 – 1.3	1.1 – 1.3
FACTUAL ASPECTS	
2.1 – 2.2	2.1
2.3	2.2
2.4 – 2.5	2.3 – 2.4
2.6 – 2.11	2.5 – 2.10
2.12	2.11
FINDINGS AND RECOMMENDATIONS REQUESTED BY THE PARTIES	
3.1 – 3.2	3.1 – 3.2
ARGUMENTS OF THE PARTIES	
4.1 – 4.38	4.1 – 4.26
ARGUMENTS PRESENTED BY THIRD PARTY	
5.1 – 5.4	5.1 – 5.6
INTERIM REVIEW	
6.1	6.1
6.2 – 6.20	6.2 – 6.23
FINDINGS	
CLAIMS OF THE PARTIES	
7.1	7.1
7.2	7.2
7.3	7.3
7.4	7.4
7.5	7.5
	7.6
7.6 – 7.7	7.7 – 7.8
PROCEDURAL ISSUES	
7.8 – 7.17	7.9 – 7.24
INTERPRETATION OF THE TRIPS AGREEMENT	
7.18 – 7.22	

United States (WT/DS50/R)	EC (WT/DS79/R)
	C. THE EXTENT OF THE BINDING NATURE OF PRECEDENTS
	7.25 – 7.30
ARTICLE 70.8 [(A) OF THE TRIPS AGREEMENT]	
7.23	7.31 – 7.32
	7.33 – 7.34
7.24	7.35
7.25 – 7.29	7.36 – 7.40
7.30 – 7.34	
	7.41 – 7.43
7.35	7.44
7.36 – 7.43	
	7.45 – 7.59
ARTICLE 63	
7.44 – 7.50	
E. ARTICLE 70.9 [OF THE TRIPS AGREEMENT]	
7.51	7.60
7.52	7.61
7.53	
	7.62 – 7.63
7.54	7.64
7.55	
7.56	7.65
7.57 – 7.59	
	7.66
7.60	7.67 – 7.68
7.61	7.69 – 7.70
7.62	
	7.71 – 7.73
7.63	7.74
7.64	
SUGGESTIONS BY THE PANEL	
7.65 – 7.66	
	F. NULLIFICATION OR IMPAIRMENT
	7.75
	CONCLUDING REMARKS
	8.1
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8.1 – 8.2	9.1 – 9.2
Annex 1	(Annex 3)
	Annex 1
Annex 2	Annex 2
(Annex 1)	Annex 3
Annex 3	
	Annex 4

**F. US – 1916 Act (EC) (Panel) and US – 1916 Act (Japan) (Panel)**

The reports compared are:

- United States – Anti-Dumping Act of 1916. Complaint by the European Communities. Report of the Panel. Circulated on 31 March 2000. WT/DS136/R.
- United States – Anti-Dumping Act of 1916. Complaint by the Japan. Report of the Panel. Circulated on 29 May 2000. WT/DS162/R and WT/DS162/R/Add.1 (containing Parts III and IV of the Panel Report).

EC (WT/DS136/R)	Japan (WT/DS162/R and Add.1)
<b>INTRODUCTION</b>	
1.1 – 1.7	1.1 – 1.7
<b>FACTUAL ASPECTS</b>	
<b>DESCRIPTION OF THE [US] 1916 ACT</b>	
2.1 – 2.5	2.1 – 2.5
<b>DESCRIPTION OF OTHER RELEVANT US ACTS</b>	
2.6 – 2.8	2.6 – 2.8
2.9	2.9
2.10 – 2.11	2.10 – 2.12
2.12	2.13
<b>INSTANCES OF APPLICATION OF THE [US] 1916 ACT</b>	
2.13 – 2.15	2.14 – 2.15
2.16	2.16
<b>II. CLAIMS AND MAIN ARGUMENTS</b>	
<b>REQUESTS DEALT WITH BY THE PANEL IN THE COURSE OF THE PROCEEDINGS</b>	
3.1 – 3.15	
	<b>A. REQUEST BY THE EUROPEAN COMMUNITIES FOR ENHANCED THIRD PARTY RIGHTS</b>
	3.1 – 3.7
<b>OVERVIEW OF THE CLAIMS OF THE PARTIES AND FINDINGS REQUESTED</b>	
3.16 – 3.24	
	3.8 – 3.14
	<b>C. TRADE EFFECTS OF THE 1916 ACT AND THEIR RELEVANCE TO THE PRESENT CASE</b>
	3.15 – 3.23
<b>D. THE DISTINCTION BETWEEN DISCRETIONARY AND MANDATORY LEGISLATION AND ITS RELEVANCE TO THE PRESENT CASE</b>	
3.25 – 3.28	
	3.24 – 3.26
3.29	3.27
3.30	3.28 – 3.29

EC (WT/DS136/R)	Japan (WT/DS162/R and Add.1)
3.31 – 3.32	
3.33 – 3.35	3.30 – 3.32
3.36 – 3.44	
3.45	(6.105)
3.46 – 3.60	
	3.33 – 3.84
	E. ROLE OF THE PANEL IN THE PRESENT CASE
	3.85 – 3.98
F. APPLICABILITY OF ARTICLE VI OF THE GATT 1994 AND THE ANTI-DUMPING AGREEMENT	
3.61 – 3.175	
	3.99 – 3.210
3.176 – 3.177	3.211 – 3.212
3.178 – 3.212	
	3.214 – 3.267
VIOLATION OF ARTICLE VI:2 OF THE GATT 1994	
3.213 – 3.269	
	G. VIOLATIONS OF ARTICLE VI:2 OF THE GATT 1994 AND ARTICLE 18.1 OF THE ANTI-DUMPING AGREEMENT
	3.268 – 3.312
a) VIOLATIONS OF ARTICLE VI:1 OF THE GATT 1994 AND ARTICLES 1, 2.1, 2.2, 3, 4 AND 5.5 OF THE ANTI-DUMPING AGREEMENT	
3.270 – 3.280	
	H. VIOLATIONS OF ARTICLE VI:1 OF THE GATT 1994 AND ARTICLES 1, 2, 3, 4, 5, 9 AND 11 OF THE ANTI-DUMPING AGREEMENT
	3.313 – 3.323
	I. VIOLATIONS OF ARTICLES 1 AND 18.1 OF THE ANTI-DUMPING AGREEMENT
	3.324 – 3.329
b) J. VIOLATION OF ARTICLE III:4 OF THE GATT 1994	
3.281 – 3.257	
	3.330 – 3.433
	K. VIOLATION OF ARTICLE XI OF THE GATT 1994
	3.434 – 3.452

Parallel Reports in the WTO Dispute Settlement

EC (WT/DS136/R)	Japan (WT/DS162/R and Add.1)
VIOLETION OF ARTICLE XVI:4 OF THE AGREEMENT ESTABLISHING THE WTO	
3.258 – 3.389	
	L. VIOLATION OF ARTICLE XVI:4 OF THE WTO AGREEMENT AND ARTICLE 18.4 OF THE ANTI-DUMPING AGREEMENT
	3.453 – 3.469
THIRD PARTY SUBMISSIONS	
	A. THE EUROPEAN COMMUNITIES
	4.1 – 4.83
	B. INDIA
4.1 – 4.2	4.84 – 4.85
4.3	
	4.86 – 4.88
4.4 – 4.5	4.89 – 4.90
4.6	
4.7 – 4.8	4.91 – 4.92
4.9	
	4.93 – 4.95
	JAPAN
4.10 – 4.17	
	MEXICO
4.18 – 4.28	
INTERIM REVIEW	
5.1	5.1
5.2 – 5.19	
	5.2
5.20 – 5.27	(6.84 – 6.91)
5.28 – 5.34	
	5.3 – 5.10
FINDINGS	
[FACTS AT THE ORIGIN OF THE DISPUTE AND] ISSUES TO BE ADDRESSED BY THE PANEL	
6.1 – 6.2	6.1 – 6.2
6.3 – 6.5	
	6.3 – 6.4
6.6	6.5
6.7 – 6.11	
	6.6 – 6.10
6.12	6.11
6.13	
	6.12 – 6.13
6.14	6.14
	6.15 – 6.16

EC (WT/DS136/R)	Japan (WT/DS162/R and Add.1)
6.15	6.17
6.16	6.18
6.17 – 6.21	6.19 – 6.23
<b>PROCEDURAL ISSUES</b>	
6.22 – 6.29	
(6.37 – 6.38)	6.24 – 6.25
(6.39)	6.26
	6.27 – 6.28
	<b>B. PRELIMINARY ISSUES</b>
	6.29
6.30	6.30
6.31	6.31
6.32 – 6.34	6.32 – 6.34
6.35	
<b>PRELIMINARY ISSUES</b>	
6.36	6.35
6.37 – 6.38	(6.24 – 6.25)
6.39	(6.26)
6.40 – 6.42	6.36 – 6.38
6.43	6.39
6.44	
	6.40 – 6.41
6.45	6.42
	6.43
6.46 – 6.47	6.44 – 6.45
	6.46
6.48 – 6.55	6.47 – 6.54
6.56	6.55
6.57 – 6.58	6.56 – 6.57
6.59	6.58
6.60	6.59
6.61 – 6.63	
	6.60
6.64	6.61
6.65	6.62
6.66 – 6.68	6.63 – 6.66
6.69 – 6.70	6.67 – 6.68

Parallel Reports in the WTO Dispute Settlement

EC (WT/DS136/R)	Japan (WT/DS162/R and Add.1)
6.71 – 6.72	6.69 – 6.71
6.73 – 6.75	6.72 – 6.74
6.76	6.75
6.77	
6.78 – 6.81	6.76 – 6.79
	6.80 – 6.83
(5.20 – 5.27)	6.84 – 6.91
	6.92 – 6.94
<b>C. APPLICABILITY OF ARTICLE VI OF THE GATT 1994 [AND OF THE ANTI DUMPING AGREEMENT] TO THE 1916 ACT</b>	
6.82 – 6.83	6.95 – 6.96
6.84	6.97
6.85 – 6.90	6.98 – 6.104
(3.45)	6.105
6.91	
	6.106
6.92	6.107
6.93 – 6.97	
	6.108 – 6.111
6.98	6.112
6.99	
6.100	6.113
6.101	
	6.114
6.102	6.115
6.103	
	6.116
6.104	6.117
6.105	
6.106	6.118
6.107	
6.108	6.119
(6.111 – 6.112)	6.120 – 6.121
6.109 – 6.110	6.122 – 6.123
6.111 – 6.112	(6.120 – 6.121)
	6.124 – 6.129



EC (WT/DS136/R)	Japan (WT/DS162/R and Add.1)
6.113 – 6.115	6.130 – 6.133
6.116	6.134
6.117	6.135
	6.136 – 6.137
6.118	6.138
6.119 – 6.120	6.139 – 6.142
6.121	6.143
6.122 – 6.123	6.144 – 6.145
6.124 – 6.127	
6.128 – 6.133	6.146 – 6.151
6.134 – 6.135	6.152 – 6.153
6.136 – 6.138	6.154 – 6.156
6.139 – 6.142	6.157 – 6.160
6.143	6.161
6.144	6.162
6.145	6.163
	6.164
6.146 – 6.151	6.165 – 6.170
6.152	6.171
6.153 – 6.157	6.172 – 6.176
6.158	6.177
6.159 – 6.160	6.178 – 6.179
6.161	6.180
6.162 – 1.165	6.181 – 6.184
6.166	6.185
6.167	
	6.186 – 6.189
6.168 – 6.170	6.190 – 6.192
	6.193
6.171 – 6.172	6.194 – 6.195
6.173 – 6.174	6.196 – 6.197
6.175 – 6.177	6.198 – 6.200
<b>D. VIOLATION OF ARTICLE [VI:1 AND] VI:2 OF THE GATT 1994 [AND OF ARTICLE 18.1 OF THE ANTI DUMPING AGREEMENT]</b>	
6.178 – 6.185	
	6.201 – 6.204
6.186 – 6.187	6.205 – 6.206

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EC (WT/DS136/R)	Japan (WT/DS162/R and Add.1)
	6.207 – 6.209
6.188 – 6.191	6.210 – 6.213
6.192	
	6.214
6.193	6.215
6.194 – 6.195	
6.196	6.216
6.197	
6.198 – 6.199	6.217 – 6.218
	6.219 – 6.225
6.200 – 6.203	6.226 – 6.229
6.204	6.230
	6.231
6.205 – 6.206	6.232 – 6.233
<b>E. VIOLATION OF [PROVISIONS / ARTICLE VI OF THE GATT 1994 AND OF ARTICLES 1, 2, 3, 4, 5, 9, 11, AND 18.1] OF THE ANTI-DUMPING AGREEMENT</b>	
6.207 – 6.210	
	6.234 – 6.253
6.211	6.254
6.212	
	6.255 – 6.256
6.213	6.257
	6.258 – 6.260
6.214	6.261
6.215 – 6.216	
	6.262 – 6.263
6.217	6.264
<b>F. VIOLATION OF ARTICLE III:4 OF THE GATT 1994</b>	
6.218 – 6.220	
	6.265 – 6.272
	<b>G. VIOLATION OF ARTICLE XI OF THE GATT 1994</b>
	6.273 – 6.281
<b>VIOLATION OF ARTICLE XVI:4 OF THE AGREEMENT ESTABLISHING THE WTO VIOLATION OF ARTICLE XVI:4 OF THE AGREEMENT ESTABLISHING THE WTO [AND OF ARTICLE 18.4 OF THE ANTI DUMPING AGREEMENT]</b>	
6.221	
	6.282 – 6.283
6.222	6.284
	6.285
6.223	
	6.286
6.224 – 6.225	

EC (WT/DS136/R)	Japan (WT/DS162/R and Add.1)
	6.287 – 6.288
NULLIFICATION OR IMPAIRMENT	
6.226 – 6.227	
I. J. SUMMARY OF FINDINGS	
6.228	6.289
	REQUEST OF JAPAN FOR A SPECIFIC RECOMMENDATION OF THE PANEL
	6.290 – 6.292
CONCLUSIONS AND RECOMMENDATIONS	
7.1	7.1
7.2	7.2

**G. EC – Trademarks and Geographical Indications (Panel)**

The reports compared are:

- European Communities – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs. Complaint by the United States. Report of the Panel. Circulated on 15 March 2005. WT/DS174/R.
- European Communities – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs. Complaint by Australia. Report of the Panel. Circulated on 15 March 2005. WT/DS290/R.

US (WT/DS174/R)	Australia (WT/DS290/R)
INTRODUCTION	
1.1 – 1.2	
	1.1
1.3	
	1.2
1.4 – 1.8	
	1.3 – 1.7
FACTUAL ASPECTS	
MEASURES MEASURE AT ISSUE	
2.1	
	2.1
PROCEDURAL HISTORY	
2.2 – 2.18	
	2.2 – 2.18
PARTIES' REQUESTS FOR FINDINGS AND RECOMMENDATIONS	
UNITED STATES	
A. AUSTRALIA	
3.1	
	3.1
3.2	
	3.2
EUROPEAN COMMUNITIES	
3.3	
	3.3
ARGUMENTS OF THE PARTIES	
4.1	
	4.1
ARGUMENTS OF THE THIRD PARTIES	
5.1	
	5.1
INTERIM REVIEW	
6.1 – 6.2	
	6.1 – 6.2
6.3 – 6.4	
6.5	
	6.3
6.6	
	6.4
6.7	
	6.5
6.8 – 6.12	
	6.6 – 6.19
6.13	
	6.20
6.14	
	6.21
6.15 – 6.16	
	6.22 – 6.23
	6.24 – 6.25
6.17	
	6.26
6.18	
	6.27

US (WT/DS174/R)	Australia (WT/DS290/R)
6.19	6.28
6.20	6.29
6.21 – 6.26	
	6.30 – 6.31
6.27	6.32
6.28	
6.29	6.33
6.30	6.34
6.31	
6.32 – 6.33	6.35 – 6.36
6.34	
	6.37
6.35 – 6.36	6.38 – 6.39
6.37	
	6.40
6.38	6.41
6.39 – 6.43	
	6.42 – 6.53
6.44	6.54
6.45	
	6.55
6.46	6.56
FINDINGS	
PRELIMINARY ISSUES	
7.1	7.1
7.2	7.2
7.3 – 7.6	7.3 – 7.6
7.7 – 7.8	7.7 – 7.8
7.9 – 7.12	
7.13	7.9
	7.10 – 7.17
7.14 – 7.15	7.18 – 7.19
7.16	
	7.20
7.17	7.21
7.18	7.22
7.19	7.23
	7.24 – 7.26
7.20	7.27
7.21	
	7.28
7.22	7.29
7.23 – 7.24	
	7.30 – 7.31

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US (WT/DS174/R)	Australia (WT/DS290/R)
7.25 – 7.27	7.32 – 7.34
7.28 – 7.33	
	7.35 – 7.84
7.34 – 7.35	7.85 – 7.86
7.36 – 7.37	
	7.87 – 7.88
<b>NATIONAL TREATMENT CLAIMS</b>	
7.38	
	7.89
7.39 – 7.40	
	7.90 – 7.91
7.41 – 7.51	7.92 – 7.102
7.52	
	7.103
7.53	7.104
7.54	
	7.105
7.55 – 7.82	7.106 – 7.133
7.83	
7.84 – 7.92	7.134 – 7.142
7.93	
	7.143
7.94 – 7.96	7.144 – 7.146
7.97	
	7.147, (7.389)
7.98 – 7.99	7.148 – 7.149
7.100	
	7.150
7.101 – 7.103	7.151 – 7.153
7.104 – 7.108	
	7.154 – 7.158
7.109	
	7.159
7.110 – 7.150	7.160 – 7.200
7.151 – 7.153	(7.205, 7.212, 7.213)
7.154 – 7.168	
	7.201
7.169 – 7.171	
	7.202 – 7.204
(7.151)	7.205
7.172	
	7.206
7.173 – 7.177	7.207 – 7.211
(7.152 – 7.153)	7.212 – 7.213
7.178	
	7.214
7.179 – 7.191	7.215 – 7.227
7.192	
	7.228
7.193 – 7.195	7.229 – 7.231
7.196	
	7.232
7.197	7.233
7.198	
	7.234
7.199	7.235

US (WT/DS174/R)	Australia (WT/DS290/R)
7.200	7.236
7.201 – 7.218	7.237 – 7.254
7.219 – 7.220	
	7.255 – 7.256
7.221 – 7.233	7.257 – 7.269
7.234	
7.235	7.270
7.236	
7.237 – 7.239	7.271 – 7.273
	7.274 – 7.275
7.240 – 7.243	7.276 – 7.279
7.244 – 7.246	
	7.280 – 7.282
7.247 – 7.257	7.283 – 7.293
7.258	7.294
7.259 – 7.261	7.295 – 7.297
7.262	7.298
7.263	
7.264 – 7.281	7.299 – 7.316
7.282	7.317
7.283 – 7.284	
	7.318 – 7.319
7.285 – 7.290	7.320 – 7.325
7.291	7.236
7.292 – 7.300	7.327 – 7.335
7.301	7.336
7.302 – 7.305	7.337 – 7.340
7.306	7.341
7.307 – 7.312	7.342 – 7.347
7.313	7.348
7.314	
	7.349
7.315	7.350
7.316	
	7.351 – 7.352
7.317 – 7.318	7.353 – 7.354
7.319	
7.320 – 7.323	7.355 – 7.358
7.324 – 7.325	
	7.359 – 7.360
7.326 – 7.327	
	7.361 – 7.362
7.328	7.363
7.329 – 7.331	
	7.364
7.332 – 7.336	7.365 – 7.369
7.337	
	7.370
7.338 – 7.343	7.371 – 7.376

Parallel Reports in the WTO Dispute Settlement

US (WT/DS174/R)	Australia (WT/DS290/R)
7.344	7.377
7.345 – 7.348	7.378 – 7.381
7.349	7.382
7.350 – 7.351	7.383 – 7.384
7.352	7.385
7.353 – 7.365	
7.366	7.386
7.367 – 7.373	
7.374 – 7.387	(7.477 – 7.490)
7.388	(7.491)
	7.387 – 7.388
(7.97)	7.389
7.389 – 7.398	
	7.390 – 7.392
7.399	7.393
7.400 – 7.438	
7.439	(7.504)
7.440 – 7.449	
	7.394 – 7.398
7.450	7.399
7.451 – 7.463	
	7.400 – 7.406
7.464	7.407
7.465 – 7.467	
	7.408 – 7.411
7.468	7.412
7.469 – 7.473	7.413 – 7.417
7.474	7.418
7.475	7.419
7.476	7.420
7.477 – 7.481	7.421 – 7.425
7.482 – 7.489	
	7.426 – 7.464
7.490	7.465
7.491	7.466
7.492	7.467
7.493 – 7.496	7.468 – 7.471
	7.472
7.497	7.473
7.498	7.474
7.499 – 7.511	
	7.475 – 7.476



US (WT/DS174/R)	Australia (WT/DS290/R)
TRADEMARK CLAIM	C. TRADE-RESTRICTIVENESS CLAIM
7.512	
(7.374 – 7.387)	7.477 – 7.490
(7.388)	
	7.491
	7.492 – 7.503
(7.439)	
	7.504
	7.505 – 7.516
7.513 – 7.531	7.517 – 7.535
7.532 – 7.539	
	7.536 – 7.542
7.540 – 7.541	7.543 – 7.544
7.542	
	7.545
7.543	
7.544 – 7.546	7.546 – 7.548
7.547	
7.548 – 7.553	7.549 – 7.554
7.554	
	7.555
7.555 – 7.565	7.556 – 7.566
7.566 – 7.567	
	7.567 – 7.568
7.568 – 7.572	7.569 – 7.573
7.573	
	7.574
7.574 – 7.576	7.575 – 7.577
7.577 – 7.582	
	7.578 – 7.582
7.583 – 7.589	7.583 – 7.589
7.590	
	7.590
7.591 – 7.607	7.591 – 7.607
7.608	
	7.608
7.609 – 7.622	7.609 – 7.622
7.623	
	7.623
7.624 – 7.626	7.624 – 7.626
7.627	
	7.627
7.628 – 7.637	7.628 – 7.637
7.638 – 7.639	
	7.638 – 7.639
7.640 – 7.658	7.640 – 7.658
7.659	
	7.659
7.660 – 7.671	7.660 – 7.671
7.672	
7.673 – 7.679	7.672 – 7.678
7.680	
7.681 – 7.688	7.679 – 7.686
	7.687 – 7.699
(7.756)	
	7.700
	7.701 – 7.704

Parallel Reports in the WTO Dispute Settlement

US (WT/DS174/R)	Australia (WT/DS290/R)
<b>OTHER CLAIMS</b>	
7.689 – 7.736	
	7.705 – 7.709
7.737 – 7.738	7.710 – 7.711
7.739 – 7.752	
	7.712 – 7.713
7.753	
	7.714
7.754 – 7.755	
7.756	(7.700)
7.757 – 7.759	
	7.715 – 7.729
7.760	7.730
7.761 – 7.763	
	7.731 – 7.753
7.764	7.754
7.765 – 7.767	
	7.755 – 7.756
7.768	
	7.757
	7.758
7.769 – 7.770	
	7.759 – 7.760
<b>CONCLUSIONS AND RECOMMENDATION</b>	
8.1 – 8.2	
	8.1 – 8.2
8.3 – 8.5	
	8.3 – 8.5
Annex A-1 – Annex A-10	
	Annex A-1 – Annex A-10
Annex B-1 – Annex B-10	
	Annex B-1 – Annex B-10
Annex C, EXHIBIT NZ-1, EXHIBIT NZ-2	
	Annex C, EXHIBIT NZ-1, EXHIBIT NZ-2
Annex D-1	
	Annex D-1
Annex D-2 – Annex D-3	
	Annex D-2 – Annex D-3

**H. US – Offset Act (Byrd Amendment) (Art. 22.6 DSU)**

The decisions compared are:

- United States – Continued Dumping and Subsidy Offset Act of 2000. Original Complaint by Brazil. Recourse to Arbitration by the United States under Article 22.6 of the DSU. Decision by the Arbitrator. Circulated on 31 August 2004. WT/DS217/ARB/BRA.
- United States – Continued Dumping and Subsidy Offset Act of 2000. Original Complaint by Chile. Recourse to Arbitration by the United States under Article 22.6 of the DSU. Decision by the Arbitrator. Circulated on 31 August 2004. WT/DS217/ARB/CHL.
- United States – Continued Dumping and Subsidy Offset Act of 2000. Original Complaint by the European Communities. Recourse to Arbitration by the United States under Article 22.6 of the DSU. Decision by the Arbitrator. Circulated on 31 August 2004. WT/DS217/ARB/EEC.
- United States – Continued Dumping and Subsidy Offset Act of 2000. Original Complaint by India. Recourse to Arbitration by the United States under Article 22.6 of the DSU. Decision by the Arbitrator. Circulated on 31 August 2004. WT/DS217/ARB/IND.
- United States – Continued Dumping and Subsidy Offset Act of 2000. Original Complaint by Japan. Recourse to Arbitration by the United States under Article 22.6 of the DSU. Decision by the Arbitrator. Circulated on 31 August 2004. WT/DS217/ARB/JPN.
- United States – Continued Dumping and Subsidy Offset Act of 2000. Original Complaint by Korea. Recourse to Arbitration by the United States under Article 22.6 of the DSU. Decision by the Arbitrator. Circulated on 31 August 2004. WT/DS217/ARB/KOR.
- United States – Continued Dumping and Subsidy Offset Act of 2000. Original Complaint by Canada. Recourse to Arbitration by the United States under Article 22.6 of the DSU. Decision by the Arbitrator. Circulated on 31 August 2004. WT/DS234/ARB/CAN.
- United States – Continued Dumping and Subsidy Offset Act of 2000. Original Complaint by Mexico. Recourse to Arbitration by the United States under Article 22.6 of the DSU. Decision by the Arbitrator. Circulated on 31 August 2004. WT/DS234/ARB/MEX.

Brazil	Chile	EEC	India	Japan	Korea	Canada	Mexico
III. INTRODUCTION							
INITIAL PROCEEDINGS							
1.1 – 1.3	1.1 – 1.3	1.1 – 1.3	1.1 – 1.3	1.1 – 1.3	1.1 – 1.3	1.1 – 1.3	1.1 – 1.3
1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.4

Parallel Reports in the WTO Dispute Settlement

Brazil	Chile	EEC	India	Japan	Korea	Canada	Mexico
1.5		1.5	1.5	1.5	1.5	1.5	1.5
	1.5						
						1.6	
1.6		1.6	1.6	1.6	1.6	1.7	1.6
<b>REQUEST FOR ARBITRATION AND SELECTION OF THE ARBITRATOR</b>							
1.7	1.6	1.7	1.7	1.7	1.7	1.8	1.7
1.8 – 1.16	1.7 – 1.15	1.8 – 1.16	1.8 – 1.16	1.8 – 1.16	1.8 – 1.16	1.9 – 1.17	1.8 – 1.16
<b>ORDER FOLLOWED BY THE ARBITRATOR IN ITS ANALYSIS</b>							
1.17 – 1.18	1.16 – 1.17	1.17 – 1.18	1.17 – 1.18	1.17 – 1.18	1.17 – 1.18	1.18 – 1.19	1.17 – 1.18
1.19	1.18	1.19	1.19	1.19	1.19	1.20	1.19
1.20	1.19	1.20	1.20	1.20	1.20	1.21	1.20
<b>IV. PRELIMINARY ISSUES</b>							
<b>REQUEST OF THE UNITED STATES FOR A PRELIMINARY RULING</b>							
2.1 – 2.5	2.1 – 2.5	2.1 – 2.5	2.1 – 2.5	2.1 – 2.5	2.1 – 2.5	2.1 – 2.5	2.1 – 2.5
2.6	2.6	2.6	2.6	2.6	2.6	2.6	2.6
2.7 – 2.8	2.7 – 2.8	2.7 – 2.8	2.7 – 2.8	2.7 – 2.8	2.7 – 2.8	2.7 – 2.8	2.7 – 2.8
2.9	2.9	2.9	2.9	2.9	2.9	2.9	2.9
2.10	2.10	2.10	2.10	2.10	2.10	2.10	2.10
<b>SUFFICIENT SPECIFICITY OF [ORIGINAL COMPLAINANT'S] REQUEST UNDER ARTICLE 22.2 OF THE DSU</b>							
2.11 – 2.12	2.11 – 2.12	2.11 – 2.12	2.11 – 2.12	2.11 – 2.12	2.11 – 2.12	2.11 – 2.12	2.11 – 2.12
						2.13	
2.13 – 2.15	2.13 – 2.15	2.13 – 2.15	2.13 – 2.15	2.13 – 2.15	2.13 – 2.15	2.14 – 2.16	2.13 – 2.15
2.16 – 2.17		2.16 – 2.17	2.16 – 2.17	2.16 – 2.17	2.16 – 2.17		2.16 – 2.17
	2.16						
						2.17 – 2.19	
2.18	2.17	2.18	2.18	2.18	2.18	2.20	2.18
2.19	2.18	2.19	2.19	2.19	2.19	2.21	2.19

Brazil	Chile	EEC	India	Japan	Korea	Canada	Mexico
2.20	2.19	2.20	2.20	2.20	2.20	2.22	2.20
2.21	2.20	2.21	2.21	2.21	2.21	2.23	2.21
2.22	2.21	2.22	2.22	2.22	2.22	2.24	2.22
						2.25 – 2.33	
<b>BURDEN OF PROOF</b>							
2.23	2.22	2.23	2.23	2.23	2.23	2.34	2.23
2.24	2.23	2.24	2.24	2.24	2.24	2.35	2.24
2.25 – 2.27	2.24 – 2.26	2.25 – 2.27	2.25 – 2.27	2.25 – 2.27	2.25 – 2.27	2.36 – 2.38	2.25 – 2.27
<b>V. DETERMINATION OF THE LEVEL OF NULLIFICATION OR IMPAIRMENT</b>							
<b>MAIN ARGUMENTS OF THE PARTIES</b>							
3.1 – 3.6	3.1 – 3.6	3.1 – 3.6	3.1 – 3.6	3.1 – 3.6	3.1 – 3.6	3.1 – 3.6	3.1 – 3.6
3.7 – 3.13		3.7 – 3.13	3.7 – 3.13	3.7 – 3.13	3.7 – 3.13		3.7 – 3.13
	3.7 – 3.11						
						3.7 – 3.11	
<b>ANALYSIS OF THE ARBITRATOR</b>							
3.14 – 3.15	3.12 – 3.13	3.14 – 3.15	3.14 – 3.15	3.14 – 3.15	3.14 – 3.15	3.12 – 3.13	3.14 – 3.15
3.16		3.16	3.16	3.16	3.16	3.14	3.16
3.17	3.14	3.17	3.17	3.17	3.17	3.15	3.17
3.18 – 3.21	3.15 – 3.18	3.18 – 3.21	3.18 – 3.21	3.18 – 3.21	3.18 – 3.21	3.16 – 3.19	3.18 – 3.21
3.22	3.19	3.22	3.22	3.22	3.22	3.20	3.22
3.23	3.20	3.23	3.23	3.23	3.23	3.21	3.23
3.24	3.21	3.24	3.24	3.24	3.24	3.22	3.24
3.25	3.22	3.25	3.25	3.25	3.25	3.23	3.25
3.26	3.23	3.26	3.26	3.26	3.26	3.24	3.26
3.27	3.24	3.27	3.27	3.27	3.27	3.25	3.27
3.28 – 3.30	3.25 – 3.27	3.28 – 3.30	3.28 – 3.30	3.28 – 3.30	3.28 – 3.30	3.26 – 3.28	3.28 – 3.30
3.31	3.28	3.31	3.31	3.31	3.31	3.29	3.31
3.32	3.29	3.32	3.32	3.32	3.32	3.30	3.32
3.33 – 3.34		3.33 – 3.34	3.33 – 3.34	3.33 – 3.34	3.33 – 3.34	3.31 – 3.32	3.33 – 3.34
3.35 – 3.43	3.30 – 3.38	3.35 – 3.43	3.35 – 3.43	3.35 – 3.43	3.35 – 3.43	3.33 – 3.41	3.35 – 3.43

Parallel Reports in the WTO Dispute Settlement

Brazil	Chile	EEC	India	Japan	Korea	Canada	Mexico
3.44	3.39	3.44	3.44	3.44	3.44	3.42	3.44
3.45	3.40	3.45	3.45	3.45	3.45	3.43	3.45
3.46	3.41	3.46	3.46	3.46	3.46	3.44	3.46
3.47 – 3.49	3.42 – 3.44	3.47 – 3.49	3.47 – 3.49	3.47 – 3.49	3.47 – 3.49	3.45 – 3.47	3.47 – 3.49
3.50	3.45	3.50	3.50	3.50	3.50	3.48	3.50
3.51 – 3.57	3.46 – 3.52	3.51 – 3.57	3.51 – 3.57	3.51 – 3.57	3.51 – 3.57	3.49 – 3.55	3.51 – 3.57
3.58		3.58	3.58	3.58	3.58		3.58
	3.53						
						3.56	
3.59 – 3.77	3.54 – 3.72	3.59 – 3.77	3.59 – 3.77	3.59 – 3.77	3.59 – 3.77	3.57 – 3.75	3.59 – 3.77
3.78	3.73	3.78	3.78	3.78	3.78	3.76	3.78
3.79	3.74	3.79	3.79	3.79	3.79	3.77	3.79
<b>CALCULATION OF THE LEVEL OF NULLIFICATION OR IMPAIRMENT THROUGH AN ECONOMIC MODEL</b>							
3.80 – 3.94	3.75 – 3.89	3.80 – 3.94	3.80 – 3.94	3.80 – 3.94	3.80 – 3.94	3.78 – 3.92	3.80 – 3.94
	3.90						
3.95 – 3.148	3.91 – 3.144	3.95 – 3.148	3.95 – 3.148	3.95 – 3.148	3.95 – 3.148	3.93 – 3.146	3.95 – 3.148
<b>CONCLUSION: LEVEL OF NULLIFICATION OR IMPAIRMENT</b>							
3.149 – 3.151	3.145 – 3.147	3.149 – 3.151	3.149 – 3.151	3.149 – 3.151	3.149 – 3.151	3.147 – 3.149	3.149 – 3.151
<b>VI. EQUIVALENCE OF THE LEVEL OF SUSPENSION OF CONCESSIONS OR OTHER OBLIGATIONS WITH THE LEVEL OF NULLIFICATION OR IMPAIRMENT</b>							
<b>ISSUES RAISED BY THE UNITED STATES IN RELATION TO THE LEVEL OF SUSPENSION OF CONCESSIONS OR OTHER OBLIGATIONS PROPOSED BY [ORIGINAL COMPLAINANT]</b>							
4.1	4.1	4.1	4.1	4.1	4.1	4.1	4.1
4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2
4.3	4.3	4.3	4.3	4.3	4.3	4.3	4.3
4.4	4.4	4.4	4.4	4.4	4.4	4.4	4.4
<b>THE LEVEL OF SUSPENSION OF CONCESSIONS OR OTHER OBLIGATIONS DETERMINED BY THE ARBITRATOR TO BE EQUIVALENT TO THE LEVEL OF NULLIFICATION OR IMPAIRMENT</b>							
4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5
4.6	4.6 – 4.7	4.6	4.6	4.6	4.6		4.6
						4.6	
4.7	4.8	4.7	4.7	4.7	4.7	4.7	4.7
4.8	4.9	4.8	4.8	4.8	4.8	4.8	4.8

Brazil	Chile	EEC	India	Japan	Korea	Canada	Mexico
4.9	4.10	4.9	4.9	4.9	4.9	4.9	4.9
4.10	4.11	4.10	4.10	4.10	4.10	4.10	4.10
4.11	4.12	4.11	4.11	4.11	4.11	4.11	4.11
4.12 – 4.16		4.12 – 4.16	4.12 – 4.16	4.12 – 4.16	4.12 – 4.16	4.12 – 4.16	4.12 – 4.16
4.17 – 4.18	4.13 – 4.14	4.17 – 4.18	4.17 – 4.18	4.17 – 4.18	4.17 – 4.18	4.17 – 4.18	4.17 – 4.18
4.19		4.19	4.19	4.19	4.19		4.19
	4.15 – 4.19						
						4.19	
4.20 – 4.27	4.20 – 4.27	4.20 – 4.27	4.20 – 4.27	4.20 – 4.27	4.20 – 4.27	4.20 – 4.27	4.20 – 4.27
<b>VII. AWARD OF THE ARBITRATOR</b>							
5.1	5.1	5.1	5.1	5.1	5.1	5.1	5.1
5.2	5.2	5.2	5.2	5.2	5.2	5.2	5.2
5.3	5.3	5.3	5.3	5.3	5.3	5.3	5.3
5.4	5.4	5.4	5.4	5.4	5.4	5.4	5.4
5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5
<b>VIII. CONCLUDING REMARKS</b>							
6.1 – 6.4	6.1 – 6.4	6.1 – 6.4	6.1 – 6.4	6.1 – 6.4	6.1 – 6.4	6.1 – 6.4	6.1 – 6.4
6.5	6.5	6.5	6.5	6.5	6.5	6.5	6.5
6.6 – 6.7	6.6 – 6.7	6.6 – 6.7	6.6 – 6.7	6.6 – 6.7	6.6 – 6.7	6.6 – 6.7	6.6 – 6.7
Annex A – Annex B	Annex A – Annex B	Annex A – Annex B	Annex A – Annex B	Annex A – Annex B	Annex A – Annex B	Annex A – Annex B	Annex A – Annex B

**I. US – Upland Cotton (Art. 22.6 DSU)**

The decisions compared are:

- United States – Subsidies on Upland Cotton. Recourse to Arbitration by the United States under Article 22.6 of the DSU and Article 4.11 of the SCM Agreement. Decision by the Arbitrator. Circulated on 31 August 2009. WT/DS267/ARB/1.
- United States – Subsidies on Upland Cotton. Recourse to Arbitration by the United States under Article 22.6 of the DSU and Article 7.10 of the SCM Agreement. Decision by the Arbitrator. Circulated on 31 August 2009. WT/DS267/ARB/2.

Prohibited Subsidies (WT/DS267/ARB/1)	Actionable Subsidies (WT/DS267/ARB/2)
IX. INTRODUCTION	
INITIAL PROCEEDINGS	
1.1 – 1.7	1.1 – 1.7
1.8	
	1.8
1.9 – 1.12	1.9 – 1.12
REQUEST FOR ARBITRATION AND ARBITRATION PROCEEDINGS	
1.13 – 1.21	1.13 – 1.21
1.22	1.22
1.23 – 1.26	1.23 – 1.26
ORGANIZATION OF THE PROCEEDINGS AND PRESENTATION OF THE DECISION	
1.27 – 1.31	1.27 – 1.31
TREATMENT OF CONFIDENTIAL INFORMATION	
1.32 – 1.33	
OVERALL APPROACH OF THE ARBITRATOR	
2.1	2.1
2.2	2.2
2.3	2.3
2.4	2.4
2.5 – 2.6	
	2.5
BRAZIL'S PROPOSED LEVEL OF COUNTERMEASURES IN RELATION TO STEP 2	
3.1 – 3.4	
IS BRAZIL ENTITLED TO SEEK 'ONE-TIME' COUNTERMEASURES IN RELATION TO THE FAILURE BY THE UNITED STATES TO WITHDRAW THE STEP 2 PAYMENTS BETWEEN 1 JULY 2005 AND 31 JULY 2006?	
3.5 – 3.62	
ASSESSMENT OF BRAZIL'S REQUESTED AMOUNT OF COUNTERMEASURES IN RELATION TO STEP 2 PAYMENTS	
3.63 – 3.64	



Prohibited Subsidies (WT/DS267/ARB/1)	Actionable Subsidies (WT/DS267/ARB/2)
	III. PRELIMINARY ISSUE: DO CHANGES IN THE LEGAL BASIS OF THE MARKETING LOAN AND COUNTERCYCLICAL PAYMENTS AFFECT BRAZIL'S ENTITLEMENT TO TAKE COUNTERMEASURES?
	3.1
	A. ARGUMENTS OF THE PARTIES
	3.2 – 3.7
	B. ASSESSMENT BY THE ARBITRATOR
	3.8 – 3.33
BRAZIL'S PROPOSED LEVEL OF COUNTERMEASURES IN RELATION TO GSM 102 BRAZIL'S REQUEST	IV. ASSESSMENT OF BRAZIL'S PROPOSED LEVEL OF COUNTERMEASURES
4.1 – 4.5	
	A. MAIN ARGUMENTS OF THE PARTIES
4.6 – 4.13	
	4.1 – 4.5
	B. MANDATE OF THE ARBITRATOR AND BURDEN OF PROOF
4.14 – 4.25	
	4.6 – 4.16
4.26	4.17
THE NOTION OF 'APPROPRIATE COUNTERMEASURES' UNDER ARTICLE 4.10 OF THE SCM AGREEMENT	
4.27 – 4.33	
	C. COUNTERMEASURES 'COMMENSURATE WITH THE DEGREE AND NATURE OF THE ADVERSE EFFECTS DETERMINED TO EXIST' (ARTICLE 7.9 AND 7.10 OF THE SCM AGREEMENT)
	4.18 – 4.23
4.34 – 4.35	4.24 – 4.25
4.36	
	4.26
4.37	4.27
4.38	
	4.28
4.39	4.29
4.40	
	4.30
4.41	4.31
4.42	
	4.32
4.43 – 4.110	
	4.33 – 4.57
4.111	4.58
4.112	
	4.59 – 4.60
4.113	4.61
4.114 – 4.117	
	4.62
ASSESSMENT OF BRAZIL'S PROPOSED COUNTERMEASURES	
4.118 – 4.279	
	4.63 – 4.195

Parallel Reports in the WTO Dispute Settlement

Prohibited Subsidies (WT/DS267/ARB/1)	Actionable Subsidies (WT/DS267/ARB/2)
<b>BRAZIL'S REQUEST TO APPLY COUNTERMEASURES UNDER THE TRIPS AGREEMENT AND THE GATS</b>	
5.1 – 5.2	5.1 – 5.2
5.3	5.3
<b>DO THE PRINCIPLES AND PROCEDURES OF ARTICLE 22.3 OF THE DSU APPLY TO BRAZIL'S REQUEST?</b>	
5.4 – 5.12	5.4 – 5.12
5.13 – 5.14	5.13 – 5.14
5.15	5.15
5.16	5.16
5.17	5.17
5.18 – 5.29	5.18 – 5.29
5.30	5.30
5.31	5.31
5.32	5.32
<b>MANDATE OF THE ARBITRATOR AND BURDEN OF PROOF</b>	
5.33 – 5.59	5.33 – 5.59
5.60	5.60
<b>BRAZIL'S DETERMINATION THAT IT IS NOT PRACTICABLE OR EFFECTIVE TO TAKE COUNTERMEASURES WHOLLY IN TRADE IN GOODS AND THAT THE CIRCUMSTANCES ARE SERIOUS ENOUGH</b>	<b>C. BRAZIL'S DETERMINATION THAT IT IS NOT PRACTICABLE OR EFFECTIVE TO TAKE COUNTERMEASURES WHOLLY IN TRADE IN GOODS</b>
5.61 – 5.92	5.61 – 5.92
5.93	5.93
5.94 – 5.99	5.94 – 5.99
5.100	5.100
5.101 – 5.107	5.101 – 5.107
5.108 – 5.109	5.108 – 5.109
5.110 – 5.166	5.110 – 5.166
5.167	5.167
5.168 – 5.200	5.168 – 5.200
5.201	5.201
5.202 – 5.229	5.202 – 5.229
5.230	5.230
5.231	5.231
5.232	5.232
5.233	5.233
5.234	5.234
5.235	5.235
5.236	5.236 – 5.237

Prohibited Subsidies (WT/DS267/ARB/1)	Actionable Subsidies (WT/DS267/ARB/2)
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6.1	
	6.1
6.2 – 6.4	6.2 – 6.4
6.5	6.5
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**J. US – Continued Suspension (Panel) and Canada – Continued Suspension (Panel)**

The reports compared are:

- United States – Continued Suspension of Obligations in the EC – Hormones Dispute. Complaint by the European Communities. Report of the Panel. Circulated on 31 March 2008. WT/DS320/R.
- Canada – Continued Suspension of Obligations in the EC – Hormones Dispute. Complaint by the European Communities. Report of the Panel. Circulated on 31 March 2008. WT/DS321/R.

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X. INTRODUCTION	
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1.2	1.2
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1.3 – 1.5	1.3 – 1.5
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1.6 – 1.8	1.6 – 1.8
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2.6	2.6
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2.7	2.7
XII. PARTIES' REQUESTS FOR FINDINGS AND RECOMMENDATIONS	
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3.2	3.2
3.3	3.3
XIII. ARGUMENTS OF THE PARTIES	
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4.1	4.1
PARTIES' REQUESTS AND ARGUMENTS ON OPENING THE PANEL MEETING FOR [THE] PUBLIC OBSERVATION	
4.2 – 4.13	4.2 – 4.13
4.14 – 4.24	4.14 – 4.21
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4.25 – 4.29	4.22 – 4.26
4.30	4.27
4.31 – 4.34	4.28 – 4.31

US (WT/DS320/R)	Canada (WT/DS321/R)
4.35 – 4.36	
	4.32 – 4.33
4.37 – 4.51	4.34 – 4.48
4.52	
	4.49
4.53 – 4.69	4.50 – 4.66
4.70	
	4.67
4.71 – 4.72	4.68 – 4.69
FIRST WRITTEN SUBMISSION OF [THE UNITED STATES/CANADA]	
4.73 – 4.121	
	4.70 – 4.118
ORAL STATEMENT OF THE EUROPEAN COMMUNITIES DURING THE FIRST SUBSTANTIVE MEETING	
4.122 – 4.160	4.119 – 4.157
ORAL STATEMENT OF [THE UNITED STATES/CANADA] DURING THE FIRST SUBSTANTIVE MEETING	
4.161 – 4.205	
	4.158 – 4.193
SECOND WRITTEN SUBMISSION OF THE EUROPEAN COMMUNITIES	
4.206	4.194
4.207 – 4.208	4.195 – 4.196
4.209	
	4.197
4.210 – 4.211	4.198 – 4.199
4.212 – 4.217	
	4.200 – 4.202
4.218 – 4.219	4.203 – 4.204
4.220	
	4.205 – 4.207
4.221 – 4.224	4.208 – 4.211
	4.212 – 4.215
4.225	
	4.216
4.226 – 4.227	4.217 – 4.218
4.228	
	(4.220)
4.229 – 4.231	
	4.219
4.232, (4.228)	4.220
4.233	
	4.221
4.234	
	4.222
4.235 – 4.236	4.223 – 4.225
4.237 – 4.241	
	4.226
SECOND WRITTEN SUBMISSION OF THE UNITED STATES/CANADA	
4.242 – 4.279	
	4.227 – 4.276

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ORAL STATEMENT OF THE EUROPEAN COMMUNITIES ON EXPERTS OPINIONS DURING THE SECOND SUBSTANTIVE MEETING	
4.280 – 4.303	4.277 – 4.300
ORAL STATEMENT OF [THE UNITED STATES/CANADA] ON EXPERTS OPINIONS DURING THE SECOND SUBSTANTIVE MEETING	
4.304 – 4.332	
	4.301 – 4.326
ORAL STATEMENT OF THE EUROPEAN COMMUNITIES ON LEGAL ISSUES DURING THE SECOND SUBSTANTIVE MEETING	
4.333 – 4.382	4.327 – 4.376
4.383	4.377
4.384 – 4.393	4.378 – 4.387
ORAL STATEMENT OF [THE UNITED STATES/CANADA] ON LEGAL ISSUES DURING THE SECOND SUBSTANTIVE MEETING	
4.394 – 4.422	
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BRAZIL	
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CANADA	
5.26 – 5.27	
C. CHINA	
5.28 – 5.50	5.26 – 5.48
D. INDIA	
5.51 – 5.58	5.49 – 5.56
E. MEXICO	
5.59 – 5.66	5.57 – 5.64
F. NEW ZEALAND	
5.67 – 5.98	5.65 – 5.96
G. NORWAY	
5.99 – 5.112	5.97 – 5.110
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5.113 – 5.121	5.111 – 5.119
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5.123 – 5.135	5.121 – 5.133
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	5.134 – 5.135
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PARTIES' COMMENTS ON THE DESCRIPTIVE PART	
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6.8 – 6.11	6.8 – 6.11
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6.13 – 6.19	6.12 – 6.18

US (WT/DS320/R)	Canada (WT/DS321/R)
6.20	6.19
6.21	6.20
6.22 – 6.23	6.21 – 6.22
6.24 – 6.25	6.23 – 6.24
6.26 – 6.27	6.25 – 6.26
6.28 – 6.40	6.27 – 6.39
6.41 – 6.43	6.40 – 6.42
6.44	6.43
6.45 – 6.52	6.44 – 6.46
6.53	6.47
6.54	6.48
6.55	6.49 – 6.50
6.56	6.51
6.57	6.52
6.58 – 6.66	6.53 – 6.61
6.67 – 6.68	6.62 – 6.63
6.69 – 6.70	6.64 – 6.65
6.71	6.66
6.72 – 6.74	6.67 – 6.69
6.75 – 6.76	6.70 – 6.71
6.77 – 6.82	6.72 – 6.77
6.83	6.78
6.84	6.79
6.85 – 6.87	6.80
6.88	6.81 – 6.96
6.89 – 6.104	6.97
6.105	6.98 – 6.124
6.106 – 6.132	6.125
6.133	6.126 – 6.133
6.134 – 6.141	6.134 – 6.164
6.142 – 6.143	
6.144 – 6.164	
6.175 – 6.176	
6.177 – 6.178	6.165 – 6.166
6.179	6.167
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US (WT/DS320/R)	Canada (WT/DS321/R)
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	7.9 – 7.16
7.19 – 7.56	7.17 – 7.54
7.57 – 7.58	
	7.55 – 7.56
7.59 – 7.66	7.57 – 7.64
7.67 – 7.68	
	7.65 – 7.66
7.69 – 7.78	7.67 – 7.76
7.79	
	7.77
7.80 – 7.89	7.78 – 7.87
7.90	
7.91	
	7.88
7.92 – 7.100	7.89 – 7.97
7.101	
	7.98
7.102 – 7.103	7.99 – 7.100
7.104	
	7.101
7.105 – 7.106	7.102 – 7.103
7.107 – 7.109	
	7.104 – 7.105
7.110 – 7.111	7.106 – 7.107
7.112 – 7.115	
	7.108
7.116 – 7.118	7.109 – 7.111
7.119	
7.120 – 7.126	7.112 – 7.118
7.127	
7.128	
	7.119
7.129 – 7.130	7.120 – 7.121
7.131 – 7.132	
	7.122 – 7.123
7.133 – 7.135	7.124 – 7.126
7.136	
	7.127
7.137 – 7.141	7.128 – 7.132
7.142 – 7.144	
7.145 – 7.146	7.133 – 7.134
7.147	
7.148 – 7.150	7.135 – 7.137
7.151	
	7.138
7.152 – 7.165	7.139 – 7.152
7.166 – 7.167	
	7.153
7.168	
	7.154
7.169	



US (WT/DS320/R)	Canada (WT/DS321/R)
7.170	7.155
7.171 – 7.173	7.156 – 7.158
7.174 – 7.175	
7.176 – 7.179	7.159 – 7.162
7.180	
7.181 – 7.182	7.163 – 7.164
<b>FIRST SERIES OF EC CLAIMS: VIOLATION OF ARTICLE 23.2(A) READ TOGETHER WITH ARTICLES 21.5 AND 23.1</b>	
7.183 – 7.185	7.165 – 7.167
7.186 – 7.191	
	7.168 – 7.175
7.192	7.176
7.193 – 7.196	
	7.177 – 7.188
7.197 – 7.202	7.189 – 7.194
7.203	
	7.195
7.204 – 7.205	7.196 – 7.197
7.206	7.198
7.207	7.199
7.208	
	7.200
7.209	7.201
7.210	7.202
7.211 – 7.218	7.203 – 7.210
7.219 – 7.221	
	7.211 – 7.214
7.222	7.215
7.223	
	7.216 – 7.221
7.224	7.222
7.225 – 7.229	
	7.223
7.230	7.224
7.231 – 7.336	
	7.225 – 7.229
7.237 – 7.245	7.230 – 7.238
7.246	7.239
7.247 – 7.251	7.240 – 7.244
<b>SECOND SERIES OF EC CLAIMS: VIOLATION OF ARTICLE 23.1, READ TOGETHER WITH ARTICLES 22.8 AND 3.7 OF THE DSU</b>	
	7.245
(7.292)	7.246
7.252	7.247
7.253	
7.254	7.248
7.255	

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7.256	7.249
7.257, (7.293)	7.250
7.258 – 7.266	
	7.251 – 7.268
(7.267)	7.269
	7.270
7.267	(7.269), 7.271
7.268 – 7.269	
	7.272 – 7.285
7.270 – 7.285	7.286 – 7.301
7.286	
	7.302
7.287 – 7.291	7.303 – 7.307
7.292	(7.246)
7.293	(7.250)
7.294 – 7.307	
7.308 – 7.309	7.308 – 7.309
7.310	
	7.310
7.311 – 7.330	7.311 – 7.330
7.331	
	7.331
7.332 – 7.343	7.332 – 7.343
7.344 – 7.345	
7.346 – 7.364	7.344 – 7.362
7.365	
	7.363
7.366	
7.367 – 7.368	7.364 – 7.365
7.369	
	7.366
7.370 – 7.373	7.367 – 7.370
7.374	
	7.371
7.375 – 7.379	7.372 – 7.376
7.380	
	7.377
7.381 – 7.382	7.378 – 7.379
7.383	
	7.380
7.384 – 7.399	7.381 – 7.396
7.400	
	7.397
7.401	
(7.405)	7.398
7.402 – 7.403	7.399 – 7.400
7.404	
	7.401
7.405	(7.398)
7.406 – 7.410	
7.411 – 7.428	7.402 – 7.419

US (WT/DS320/R)	Canada (WT/DS321/R)
7.429	7.420
7.430 – 7.436	7.421 – 7.427
7.437	7.428
7.438 – 7.439	7.429 – 7.430
7.440 – 7.441	
7.442	7.431
7.443	7.432
7.444	7.433
7.445 – 7.446	7.434 – 7.435
7.447 – 7.448	7.436 – 7.437
7.449	7.438
7.450 – 7.454	7.439 – 7.443
7.455	7.444
7.456	
7.457 – 7.460	7.445 – 7.448
7.461	7.449 – 7.451
7.462 – 7.463	7.452 – 7.453
7.464	7.454
7.465 – 7.469	7.455 – 7.459
7.470 – 7.484	
7.485 – 7.486	7.460 – 7.461
7.487 – 7.493	7.462 – 7.465
7.494 – 7.516	7.466 – 7.488
7.517	7.489
7.518 – 7.528	7.490 – 7.500
7.529	7.501
7.530 – 7.532	7.502 – 7.504
7.533	7.505
7.534 – 7.538	7.506 – 7.510
7.539 – 7.548	7.511 – 7.516
7.549 – 7.565	7.517 – 7.533
7.566	7.534
7.567 – 7.572	7.535 – 7.540
7.573	7.541
7.574 – 7.575	7.542 – 7.543
7.576 – 7.577	7.544 – 7.547
7.578 – 7.581	7.548 – 7.551
7.582 – 7.587	7.552 – 7.556
7.588 – 7.589	7.557 – 7.558

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US (WT/DS320/R)	Canada (WT/DS321/R)
	7.559 – 7.564
7.590 – 7.596	7.565 – 7.571
7.597	7.572
7.598 – 7.604	7.573 – 7.579
	7.580 – 7.582
7.605 – 7.613	7.283 – 7.591
7.614	
	7.592 – 7.594
7.615 – 7.616	7.595 – 7.596
7.617 – 7.618	
7.619 – 7.637	7.597 – 7.615
7.638 – 7.639	
	7.616 – 7.617
7.640	7.618
7.641 – 7.649	7.619 – 7.627
7.650	
7.651 – 7.721	7.628 – 7.698
7.722 – 7.724	
	7.699 – 7.701
7.725 – 7.736	7.702 – 7.713
7.737	7.714
7.738 – 7.742	7.715 – 7.719
7.743	
	7.720 – 7.723
7.744 – 7.756	7.724 – 7.736
7.757	
	7.737 – 7.739
7.758 – 7.781	7.740 – 7.763
7.782	
	7.764 – 7.766
7.783 – 7.804	7.767 – 7.788
7.805	
	7.789 – 7.791
7.806	7.792
7.807 – 7.809	7.793 – 7.795
7.810	7.796
7.811 – 7.837	7.797 – 7.823
7.838 – 7.841	
	7.824 – 7.826
7.842 – 7.851	7.827 – 7.836
VIOLATION OF ARTICLE [I/I:1] AND ARTICLE II OF THE GATT 1994	
7.852 – 7.853	7.837 – 7.838
CONDITIONAL CLAIM OF VIOLATION OF ARTICLE 22.8 OF THE DSU MADE IN THE ALTERNATIVE	
7.854 – 7.855	7.839 – 7.840
CONCLUSION	
7.856	7.841
7.857	7.842
XVII. RECOMMENDATIONS	
8.1 – 8.3	8.1 – 8.3

US (WT/DS320/R)	Canada (WT/DS321/R)
Annex A	Annex A
Annex B-1	Annex B-1
Annex B-2 – Annex B-3	
	Annex B-2 – Annex B-3
Annex B-4	
Annex C-1 – Annex C-2	Annex C-1 – Annex C-2
Annex C-3 – Annex C-5	
	Annex C-3 – Annex C-5
Annex D – Annex E	Annex D – Annex E

**K. US – Shrimp (Thailand) (Panel) and US – Customs Bond Directive (Panel)**

The reports compared are:

- United States – Measures Relating to Shrimp from Thailand. Complaint by Thailand. Report of the Panel. Circulated on 29 February 2008. WT/DS343/R.
- United States – Customs Bond Directive for Merchandise Subject to Anti-Dumping/Countervailing Duties. Complaint by India. Report of the Panel. Circulated on 29 February 2008. WT/DS345/R.

US – Shrimp (Thailand) (WT/DS343/R)	US – Customs Bond Directive (WT/DS345/R)
XVIII. INTRODUCTION	
COMPLAINT OF THAILAND	A. COMPLAINT OF INDIA
1.1 – 1.3	1.1 – 1.3
1.4 – 1.11	1.4 – 1.11
XIX. FACTUAL ASPECTS	
2.1	2.1
THE ANTI-DUMPING MEASURE	
2.2 – 2.4	
A. THE ENHANCED CONTINUOUS BOND REQUIREMENT (THE ‘EBR’)	
2.5	2.2
B. IMPOSITION OF CONTINUOUS BONDS AND OTHER SECURITY REQUIREMENTS IN THE CONTEXT OF THE US RETROSPECTIVE ANTI-DUMPING AND COUNTERVAILING DUTY ASSESSMENT SYSTEM	
2.6 – 2.7	2.3 – 2.4
2.8 – 2.11	2.5 – 2.8
C. IMPLEMENTATION OF THE AMENDED CONTINUOUS BOND DIRECTIVE (THE ‘AMENDED CBD’)	
2.12 – 2.17	2.9 – 2.14
D. THE IMPACT OF THE ENHANCED CONTINUOUS BOND REQUIREMENT (THE ‘EBR’) ON SUBJECT SHRIMP IMPORTERS	
2.18 – 2.19	2.15 – 2.16
XX. PARTIES’ REQUESTS FOR FINDINGS AND RECOMMENDATIONS	
3.1	3.1
3.2	3.2
XXI. ARGUMENTS OF THE PARTIES	
4.1	4.1
XXII. ARGUMENTS OF THE THIRD PARTIES	
5.1	5.1
XXIII. INTERIM REVIEW	
6.1 – 6.2	6.1 – 6.2
[THAILAND’S/INDIA’S] COMMENTS ON THE INTERIM REPORT	
	6.3

US – Shrimp (Thailand) (WT/DS343/R)	US – Customs Bond Directive (WT/DS345/R)
6.3	6.4
6.4 – 6.42	
	6.5 – 6.11
6.43 – 6.44	6.12 – 6.13
6.45 – 6.46	
THE UNITED STATES' COMMENTS ON THE INTERIM REPORT	
6.47 – 6.48	6.14 – 6.15
6.49	
6.50	6.16
	6.17
6.51	6.18
	6.19
6.52	6.20
6.53	6.21
6.54 – 6.55	6.22 – 6.23
6.56 – 6.58	6.24 – 6.26
6.59	
6.60	6.27
6.61	
6.62	6.28
6.63	
6.64	6.29
6.65	
6.66	6.30
	6.31
6.67 – 6.68	6.32 – 6.33
6.69	6.34
	6.35
6.70 – 6.71	6.36 – 6.37
	6.38 – 6.40
XXIV. FINDINGS	
PRELIMINARY ISSUES	
7.1 – 7.4	7.1 – 7.4
7.5 – 7.8	
	7.5 – 7.10
THAILAND'S CLAIM AGAINST THE USE OF ZEROING IN THE ORIGINAL INVESTIGATION	
7.9 – 7.36	
THAILAND'S CLAIM AGAINST THE APPLICATION OF THE EBR TO SUBJECT SHRIMP FROM THAILAND	B. INDIA'S AS APPLIED CLAIMS
7.37	7.11
7.38	7.12

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US – Shrimp (Thailand) (WT/DS343/R)	US – Customs Bond Directive (WT/DS345/R)
7.39 – 7.40	7.13 – 7.14
7.41 – 7.46	7.15 – 7.20
7.47 – 7.48	7.21 – 7.22
7.49	7.23
	7.24 – 7.25
7.50	7.26 – 7.27
7.51 – 7.53	7.28 – 7.30
7.54 – 7.59	
	7.31 – 7.32
7.60 – 7.61	7.33 – 7.34
7.62	7.35
7.63	7.36
7.64	
	7.37 – 7.38
7.65 – 7.66	7.39 – 7.40
7.67 – 7.80	7.41 – 7.54
7.81 – 7.84	
	7.55 – 7.58
7.85 – 7.89	7.59 – 7.63
	7.64 – 7.70
7.90 – 7.91	7.71
7.92	7.72
7.93 – 7.96	7.73 – 7.75
7.97 – 7.98	7.76 – 7.77
7.99 – 7.102	7.78 – 7.81
7.103 – 7.104	7.82 – 7.83
7.105	7.84
	7.85 – 7.88
7.106 – 7.107	7.89 – 7.90
7.108 – 7.110	
	7.91 – 7.94
(7.126)	7.95
7.111	7.96
7.112	7.97
7.113 – 7.114	7.98
7.115 – 7.118	7.99 – 7.102
	7.103 – 7.104
7.119	7.105
7.120 – 7.121	
7.122	7.106
7.123 – 7.125	
7.126	(7.95)



US – Shrimp (Thailand) (WT/DS343/R)	US – Customs Bond Directive (WT/DS345/R)
7.127 – 7.129	
7.130 – 7.131	7.107 – 7.108
7.132	
	7.109
7.133 – 7.134	7.110 – 7.111
7.135	
	7.112
7.136 – 7.145	7.113 – 7.122
7.146	
	7.123
	7.124
7.147	
	7.125
7.148 – 7.151	7.126 – 7.129
7.152	
	7.130
	7.131
7.153 – 7.155	
	7.132 – 7.164
7.156	
	7.165
7.157	7.166
7.158	
	7.167
7.159	7.168
7.160	
	7.169
7.161	7.170
7.162 – 7.163	
	7.171 – 7.172
	C. INDIA'S AS SUCH CLAIMS
	7.173 – 7.275
	NOTIFICATION REQUIREMENT UNDER ARTICLE 18.5 OF THE ANTI-DUMPING AGREEMENT AND ARTICLE 32.6 OF THE SCM AGREEMENT
	7.276 – 7.285
	UNITED STATES' DEFENCE UNDER ARTICLE XX(D) OF THE GATT 1994
7.164	
	7.286
7.165 – 7.166	7.287 – 7.288
7.167 – 7.168	
	7.289
7.169 – 7.176	7.290 – 7.297
7.177	
	7.298
7.178	
	7.299
7.179 – 7.185	7.300 – 7.306
7.186	
	7.307
7.187 – 7.190	7.308 – 7.311
7.191 – 7.192	
	7.312 – 7.313

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US – Shrimp (Thailand) (WT/DS343/R)	US – Customs Bond Directive (WT/DS345/R)
XXV. CONCLUSIONS AND RECOMMENDATIONS	
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8.1	8.3
8.2 – 8.3	
	8.4
8.4 – 8.6	8.5 – 8.7
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	5
5 – 12	6 – 13
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14 – 19	15 – 20
20 – 21	21 – 22
22	23
23	24
24	25
	26 – 30
25 – 27	31 – 33
28	
	34 – 36
29 – 31	37 – 39
32	
Annex A-2	
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	1 – 48
Annex B-1	
1	1
2 – 3	2
4	3
5	4
6 – 7	5
8	6
9	7
10	8
11 – 12	9
13 – 16	10 – 13
17	14
18 – 19	15
20	16

US – Shrimp (Thailand) (WT/DS343/R)	US – Customs Bond Directive (WT/DS345/R)
21	
22	17
23	18
24	19
25 – 26	20
27 – 28	21 – 22
29	23
30 – 31	24 – 25
	26
32 – 33	27
34	28
	29 – 33
35 – 36	34 – 35
37	36
Annex B-2	
1 – 40	
	1 – 47
Annex C-1	
1 – 12	1 – 12
	13
13 – 16	14 – 17
17	
18 – 23	18 – 23
24	24
Annex C-2	
1 – 15	
	1 – 14
Annex C-3	
1 – 9	1 – 9
10	
11 – 12	10 – 11
13	12
	13
14	14
15	
16	15
Annex C-4	
1 – 24	
Annex C-5	
1 – 7	
	1 – 7
8	8
9	9

Parallel Reports in the WTO Dispute Settlement

US – Shrimp (Thailand) (WT/DS343/R)	US – Customs Bond Directive (WT/DS345/R)
10 – 14	10 – 14
15	15
	Annex C-5
	1 – 24
Annex C-6	
1 – 13	
Annex C-7	
1 – 13	

### **L. Statistical overview of annexes A to K**

In the first table, the first column contains the symbol of the report. The percentage of paragraphs that are identical or that have negligible differences is shown in the second column. Differences deemed to be negligible in this article mainly involve parties to the disputes, footnotes, numbers and spelling, as well as variations in syntax that do not seem to have a substantial bearing on the paragraph's meaning. The third and the fourth columns contain the percentage of paragraphs with different yet closely related content, and with substantially different content, respectively. Since the columns reflect all the paragraphs of the reports, the percentages add up to 100% (except for annexes C and H). The information on annexes C and H is presented separately to better reflect the identical and closely related content shared by those reports.

Dispute symbol	identical content	related content	different content
Annex A: EC – Hormones (Panel)			
WT/DS26/R/USA	45%	13%	17%
WT/DS48/R/CAN			25%
Annex B: EC – Hormones (Art. 22.6 DSU)			
WT/DS26/ARB	46%	26%	22%
WT/DS48/ARB			6%
Annex C: EC – Bananas III (Panel): see below			
Annex D: EC – Bananas III (Art. 21.5 DSU) (Panel)			
WT/DS27/RW2/ECU	9%	7%	35%
WT/DS27/RW/USA			49%
Annex E: India – Patents (US) (Panel) and India – Patents (EC) (Panel)			
WT/DS50/R	5%	16%	36%
WT/DS79/R			43%
Annex F: US – 1916 Act (EC) (Panel) and US – 1916 Act (Japan) (Panel)			
WT/DS136/R	5%	12%	37%
WT/DS162/R and Add.1			46%

Parallel Reports in the WTO Dispute Settlement

Dispute symbol	identical content	related content	different content
Annex G: EC – Trademarks and Geographical Indications (Panel)			
WT/DS174/R	44%	7,5%	26%
WT/DS290/R			22,5%
Annex H: US – Offset Act (Byrd Amendment) (Art. 22.6 DSU): see below			
Annex I: US – Upland Cotton (Art. 22.6 DSU)			
WT/DS267/ARB/1	30%	4%	40%
WT/DS267/ARB/2			26%
Annex J: US – Continued Suspension (Panel) and Canada – Continued Suspension (Panel)			
WT/DS320/R	56%	5%	21%
WT/DS321/R			18%
Annex K: US – Shrimp (Thailand) (Panel) and US – Customs Bond Directive (Panel) (without annexes)			
WT/DS343/R	26%	12%	22%
WT/DS345/R			40%

Annex C: EC – Bananas III (Panel): identical paragraphs <sup>58</sup>			
	WT/DS27/R/ECU	WT/DS27/R/GTM WT/DS27/R/HND	WT/DS27/R/MEX
WT/DS27/R/USA	96%	88%	95%
WT/DS27/R/MEX	94%	88%	
WT/DS27/R/GTM WT/DS27/R/HND	88%		

<sup>58</sup> 86% of identical content is shared by all four reports.

Annex C: EC – Bananas III (Panel): paragraphs with closely related content			
	WT/DS27/R/ECU	WT/DS27/R/GTM WT/DS27/R/HND	WT/DS27/R/MEX
WT/DS27/R/USA	<1%	<1%	<1%
WT/DS27/R/MEX	<1%	<1%	
WT/DS27/R/GTM WT/DS27/R/HND	<1%		

Annex C: EC – Bananas III (Panel): paragraphs with substantially different content not shared by any other report			
WT/DS27/R/USA	WT/DS27/R/ECU	WT/DS27/R/GTM WT/DS27/R/HND	WT/DS27/R/MEX
0	0	1%	<1%

Annex H: US – Offset Act (Byrd Amendment) (Art. 22.6 DSU): identical paragraphs <sup>59</sup>							
	MEX	CAN	KOR	JPN	IND	EEC	CHL
WT/DS217/ARB/BRA	85%	81%	85%	86%	85%	85%	80%
WT/DS217/ARB/CHL	80%	77%	80%	80%	80%	80%	
WT/DS217/ARB/EEC	85%	82%	86%	86%	85%		
WT/DS217/ARB/IND	85%	81%	86%	85%			
WT/DS217/ARB/JPN	85%	81%	89%				
WT/DS217/ARB/KOR	85%	82%					
WT/DS234/ARB/CAN	80%						

<sup>59</sup> 77% of identical content is shared by all eight reports.

Parallel Reports in the WTO Dispute Settlement

Annex H: US – Offset Act (Byrd Amendment) (Art. 22.6 DSU): paragraphs with closely related content							
	MEX	CAN	KOR	JPN	IND	EEC	CHL
WT/DS217/ARB/BRA	3%	8%	3%	3%	3%	3%	8%
WT/DS217/ARB/CHL	8%	10%	7%	8%	8%	7%	
WT/DS217/ARB/EEC	3%	7%	2%	3%	3%		
WT/DS217/ARB/IND	4%	8%	3%	4%			
WT/DS217/ARB/JPN	3%	8%	3%				
WT/DS217/ARB/KOR	4%	7%					
WT/DS234/ARB/CAN	8%						

Annex H: US – Offset Act (Byrd Amendment) (Art. 22.6 DSU): paragraphs with substantially different content not shared by any other report							
BRA	CHL	EEC	IND	JPN	KOR	CAN	MEX
0	6%	0	0	0	0	8%	0