Chapter 17

DISPUTE SETTLEMENT PROCEDURES UNDER WTO

As mentioned in the "Preface," this Report aims to present specific measures for resolving issues related to trade policies and measures, and attaches special importance to the use of the WTO dispute settlement mechanism as a means of that resolution.

The WTO Agreement provides for the discipline applicable to all dispute settlement procedures is the "Understanding on Rules and Procedures Governing the Settlement of Disputes" or Dispute Settlement Understanding (DSU). The WTO dispute settlement mechanism also contains provisions for special or extra procedures under agreements such as Articles XXII and XXIII of GATS (General Agreement on Trade in Services) as well as the procedures and rules of the Appellate Body. The mechanism covers the procedures for mediation, conciliation, good offices and arbitration, and the core part of those procedures includes "consultation" and "panel procedures" and a series of other procedures relevant to them.

This section begins with an introduction of a series of dispute settlement procedures including "consultation" and "panel procedures" as provided for by DSU, and then gives an explanation about the ongoing DSU review negotiations in the WTO Doha Round. Finally, actual dispute cases that Japan is involved in are explained.

1. OUTLINE OF THE WTO DISPUTE SETTLEMENT MECHANISM

(1) Type of disputes subject to the mechanism

Paragraph 1, Article 1 of the DSU provides that the rules and procedures of the DSU shall apply to the following.

1) Disputes brought pursuant to the consultation and dispute settlement provisions of the Agreements listed in Appendix 1 to the DSU; and
2) Consultations and the settlement of disputes between Members concerning their rights and obligations under the provisions of the Agreement Establishing the World Trade Organization (WTO Agreement).

Based on the above, the DSU rules and procedures apply to the following specific agreements:

- WTO Agreement
- General Agreement on Tariffs and Trade (GATT)
- Agreement on Agriculture
- Agreement on Sanitary and Phytosanitary Measures (SPS)
- Agreement on Technical Barriers to Trade (TBT)
- Agreement on Trade-Related Investment Measures (TRIM)
- Agreement on Implementation of Article VI of GATT 1994 (Anti-dumping measures)
- Agreement on Subsidies and Countervailing Measures (SCM)
- Agreement on Safeguards (SG)
- General Agreement on Trade in Services (GATS)
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Government Procurement Agreement (GPA)

(2) Consultation

Traditionally, GATT attached significant importance to bilateral consultation, and many disputes actually were settled in this manner. GATT provides for some special consultation and review procedures, such as the one mentioned in Article XIII at paragraph 2 (specifying that a contracting party shall, upon request by another contracting party regarding fees or charges connected with importation/exportation, review the operation of its laws and regulations), as well as in the "1960 GATT decision on arrangements for consultations on restrictive business practices" (specifying that a contracting party shall, upon request by another contracting party regarding the business practice by which international trade competitions would be limited, give sympathetic consideration and provide an adequate opportunity for consultation). However, paragraph 1 of Article XXII and paragraph 1 of Article XXIII of GATT play the central role in prescribing that "formal" consultation to take place prior to panel procedures.

1) Consultation under Article XXII and Article XXIII, respectively

Regarding the difference between the two provisions, consultation under Article XXII covers any matter affecting the operation of GATT, while the coverage of consultation under Article XXIII is limited to certain matters. Specifically, Article XXIII provides that a contracting party may make representations or proposals to another contracting party if the former party considers that any benefit accruing to it directly or indirectly under GATT is being nullified or impaired or that the attainment of any objective of GATT is being impeded as the result of:

(a) the failure of another contracting party to carry out its obligations under GATT, or
(b) the application by another contracting party of any measure, whether or not it conflicts with the provisions of GATT, or
(c) the existence of any other situation.

Thus, disputes over "nullification or impairment of any benefit otherwise to accrue under GATT" may be brought to consultation under Article XXIII. Another point of difference between the two concepts of consultation is the participation of a third country; it is permitted only with respect to consultations under Article XXII. Similar differences can be seen in the relation between Article XXII and Article XXIII

of GATS.

2) Consultation under Article 4 of DSU

The DSU specifies that it adheres to the principles of the management of disputes applied under Articles XXII and XXIII of GATT (paragraph 1, Article 3 of DSU). Article 4 of DSU provides for consultation procedures and rules and specifies that each party should give sympathetic consideration to any representations made by another party and should provide adequate opportunity for consultation. It provides that the parties which enter into consultations should attempt to obtain satisfactory adjustment of the matter concerned.

According to the DSU (paragraph 4, Article 4), a request for consultations shall be effective when such request is submitted in writing, gives reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint and is notified to the DSB (Dispute Settlement Body of WTO). It provides that the party to which a request is made shall reply within 10 days after the date of its receipt and shall enter into consultations in good faith within a period of no more than 30 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution (paragraph 3, Article 4 of DSU).

WTO Members other than the consulting parties are to be informed in writing of requests for consultations, and any Member that has a substantial trade interest in consultations may request to join in the consultations as a third party. It is also provided that the party to which the request for consultations is addressed may reject the said third party's desire to join in the consultations when the party considers that "the claim of substantial trade interest is not well-founded" (paragraph 11, Article 4 of DSU).

(3) Panel procedures

1) Establishing a panel

Paragraph 2, Article XXIII of GATT provides that if no satisfactory adjustment is effected through consultations between the contracting parties concerned, the dispute concerned may be referred to the DSB (Dispute Settlement Body, or "Contracting Parties" under the former GATT) with respect to alleged "nullification or impairment of any benefit otherwise to accrue under GATT" as mentioned above.

In the past, such disputes referred to the Contracting Parties were brought to a working group consisting of the disputing parties and neutral parties. The working group was supposed to confirm claims of the respective disputing parties and discuss them, but was not required to make a legal judgment. The function of the working groups was limited to the facilitation of negotiations and dispute settlement. Later, however, the "panel" procedure was introduced and has become the regular practice. A panel is composed of panelists (see Note) who do not represent a government or any organization, but are supposed to serve in their individual capacities. A panel is principally to make a legal judgment regarding the matters in dispute. Also, the WTO dispute settlement mechanism employs a two-tier appellate system, establishing the Appellate Body. GATT provides that consultations pursuant to paragraph 1 of its Article XXIII should precede the establishment of a panel in accordance with paragraph 2 of Article XXIII, but it was generally accepted that a panel could be established after consultations under Article XXII even if there had been no consultation under Article XXIII.

The WTO dispute settlement mechanism does not differentiate consultations under Article XXII from those under Article XXIII of GATT. If consultations fail to settle a dispute within 60 days after the date of receipt of a request for consultations, the complaining party may submit a written request to the DSB for the establishment of a panel (paragraph 7, Article 4 of DSU). It is provided that such written request should indicate whether consultations were held, identify the specific measures at issue and provide a brief summary of the legal basis of the complaint sufficient to present clearly the problem of inconsistency with trade agreements in question (paragraph 2, Article 6 of DSU).

As a rule, decisions of the DSB are made by consensus, but the so-called "negative

consensus method" is applied to the issues of "establishment of panels" (paragraph 1 of Article 6), "adoption of reports of a panel or Appellate Body" (paragraph 4 of Article 16 and paragraph 14 of Article 17) and "compensation and the suspension of concessions" (paragraph 6 of Article 22), the requested action is approved unless all participating Member countries present at the DSB meeting unanimously object. As far as the DSB's establishment of a panel is concerned, paragraph 2, Article 6 of DSU specifies that "a panel shall be established at the latest at the DSB meeting following that at which the request first appears as an item on the DSB's agenda, unless at that meeting the DSB decides by consensus not to establish a panel."

Parties other than the complaining party which requested the establishment of a panel are entitled to block the panel establishment but only once (paragraph 1, Article 6 of DSU). This veto is most frequently employed by the respondent. Therefore, in most cases, a panel is established at the second DSB meeting at which the request appears as an item on the DSB's agenda. Any Member that desires to be joined in the panel procedure as a third party because of having a substantial interest in the matter concerned is required to express such desire at the time of the establishment of a panel or within 10 days after the date of the panel establishment.

2) Composition of Panels

Once a panel is established, the next step is to select panelists. Selection of panelists is conducted through proposals by the WTO Secretariat on panelists (paragraph 6, Article 8 of DSU). Generally, the Secretariat summons the disputing parties and hears their opinions concerning desirable criteria for selecting panelists, such as home country, work experience and expertise.

Then, the Secretariat prepares a list of nominees (generally six persons) providing their names and brief personal record, and show the list to both parties. It is provided that citizens of the disputing parties or third parties joined in the panel procedure may not serve on a panel concerned with that dispute, unless the parties to the dispute agree otherwise (paragraph 3, Article 8 of DSU).

It is also provided that either disputing party "shall not oppose nominations except for compelling reasons" (paragraph 7, Article 8 of DSU). However, since the definition of a compelling reason is not very strict, frequently nominations made by the WTO Secretariat are not accepted by either party, and sometimes this happens several

times. Also, it is provided that if there is no agreement on the panelists within 20 days after the date of the establishment of a panel, the Director-General, upon request of either party, shall determine the composition of the panel after consulting with the parties to the dispute (paragraph 7, Article 8 of DSU).

3) Making written submissions

After the composition of a panel is determined, the panel meets to determine the timetable for the panel process and the working procedures it will follow throughout the dispute. Then, after three to six weeks from the establishment of the panel, the complainant provides the panel a written submission containing all facts relating to the issue concerned and its claims. The respondent also provides a written submission to the panel in two to three weeks after the receipt of the complainant's written submission (paragraph 12 of Appendix 3 of DSU). Although there is no rule specifying the composition of a written submission, in many cases they are composed of five parts: 1) introduction; 2) facts behind the complaint; 3) procedural points at issue; 4) claims based on legal grounds; and 5) conclusion.

Regarding the disclosure of the written submissions, it is provided (in paragraph 3, Appendix 3 of DSU) that "deliberations of a panel and documents submitted to it shall be kept confidential. Nothing in the DSU shall preclude a party to a dispute from disclosing statements of its own positions to the public." Thus, disputing parties may disclose their own written submissions to the public. Actually, the United States and EU disclose many of their written submissions to the public, and Japan also releases some of its written submissions to the public on websites.

4) Panel meeting

A panel generally meets two times. Meetings of a panel are held in the WTO building, instead of a special facility such as a court. Traditionally, a panel meets in closed session, just like other meetings of WTO. Generally, panel meetings last one to three days.

The first meeting of a panel is supposed to be held in one to two weeks after the receipt of the written submission submitted by the respondent (paragraph 12, Appendix 3 of DSU). This first substantive meeting is to begin with a briefing made by the

chairman of the panel on how to proceed with the meeting. Then, the complainant and the respondent, respectively, give oral statements regarding their own written submissions. This is followed by questioning by the panel and in some cases a question-and-answer session between the disputing parties. Next, a third party session is held, where oral statements and a question-and-answer session occurs. As a rule, the presence of third parties is permitted only at these third party sessions, and third parties may not be present at substantive meetings.

The second substantive meeting of a panel is supposed to be held after two to three months since the first substantive meeting. The second meeting focuses mainly on counter-arguments against claims of the other party made during the first substantive meeting. Unlike the first substantive meeting, third parties are not permitted to attend the second substantive meeting. Unless otherwise agreed between the disputing parties, third parties may not make written submissions or obtain written submissions submitted by the disputing parties.

5) Interim report

Following the second substantive meeting, the panel issues an interim report to the disputing parties. The interim report describes the findings and conclusions of the panel. An interim report provides the first opportunity for disputing parties to tell whether their arguments are supported by the panel or not. Disputing parties are entitled to submit comments or submit a request for the panel to review and correct technical aspects of the interim report for correction.

6) Final panel report

The DSU provides (in paragraph 9 of its Article 12) that the period in which the panel conducts its examination, from the date that the composition and terms of reference of the panel have been agreed upon until the date the final report is issued to the disputing parties, “shall not exceed six months as a general rule.” When the panel considers that it cannot issue its report within six months, it is supposed to inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will issue its report (paragraph 9, Article 12 of DSU). The recent trend is that cases requiring an examination period exceeding six months are increasing

because of the difficulty in confirming facts due to the existence of a highly technical matter or difficult interpretations of a legal matter at issue.

Generally, a final panel report is issued shortly after the disputing parties comment on the interim report, first to disputing parties and then to all Members in the three official languages of the WTO (English, French and Spanish).

A panel report contains, in its conclusion, the judgment reached by the panel as well as recommendations regarding correction of the measures in question. This conclusion is referred to the DSB, where the "negative consensus method" is applied for the adoption of the panel report. The DSB adopts the "recommendation and rulings", which are legally binding the parties concerned. Adoption of a panel report is supposed to be completed between 21 and 60 days after the date the report has been circulated to the Members (paragraphs 1 and 4 of Article 16 of DSU).

(4) Appeal (review by the Appellate Body)

If there is an objection to a panel report, disputing parties may request the Appellate Body to examine the appropriateness of the legal interpretations employed by the panel (paragraph 4, Article 17 of DSU). The Appellate Body is a standing group composed of seven persons of recognized authority with demonstrated expertise in law, international trade and the subject matter of the covered agreements generally; the Appellate Body membership is broadly representative of membership in the WTO. Three persons out of the seven Appellate Body members are to serve on any one case. Persons serving on the Appellate Body are selected by a consensus of all Members at the DSB and serve for a four-year term. Each person may be reappointed once (paragraph 2, Article 17 of DSU).

A Notice of Appeal should be filed no later than the DSB meeting at which a panel report is scheduled to be adopted. Since it is provided that the adoption of a panel report should be completed within 60 days after the date of circulation of the panel report to the Members, an appeal is supposed to be made within 60 days after the date of circulation (paragraph 4, Article 16 of DSU).

It is provided (in paragraph 6 of Article 17 of DSU) that an appeal should be limited to issues of law covered in the panel report and legal interpretations developed by the panel. In principle, factual findings of a panel may not be challenged. Regarding legal interpretations and findings, there is a precedent that mentions: "To determine

whether a certain incident occurred at a certain place/time is a matter of fact typically. However, to determine whether a certain fact or a series of facts complies with any given rule of a certain convention is a matter of law and requires legal interpretation." (*EC-Hormone-Treated Beef* Case (DS26))

After the filing of a Notice of Appeal, the Appellate Body shows the timetable for set out in its working procedures. The three major steps in the procedures are: (1) filing of a written submission by the appellant; (2) filing of written submissions by the appellee and third participants, respectively; and (3) meeting of the Appellate Body with the parties (oral hearing). It is provided that the appellant's filing of its written submission ((1) above) should shall be made within 7 days after the filing of a Notice of Appeal, that the appellee's filing of its written submission ((2) above) should be made within 25 days after the date of the filing of a Notice of Appeal, and that the meeting of the Appellate Body (oral hearing) ((3) above) is supposed to be held between 35 and 45 days after the date of the filing of a Notice of Appeal (paragraphs 21, 22, 24 and 27 of Working Procedures for Appellate Review "WT/AB/WP/5" issued on January 4, 2005). It is also provided that the participation of a third party in appellate review procedures may be accepted only if such party was joined in the panel procedure (paragraph 4, Article 17 of DSU). Third party participants may file written submissions and also may be present at the meeting of the Appellate Body.

During a meeting of the Appellate Body (1) the appellant, (2) the appellee and (3) third participant(s), respectively, make oral arguments in the order mentioned. This is followed by questioning by the Appellate Body of the disputing parties as well as of third party participants; and each party is required to address the questions. The Appellate Body takes the initiative in questioning, and either disputing party is generally not allowed to ask a question to the other party. In general, following the question-and-answer session, disputing parties and third party participants are provided with the opportunity to make oral statements again at the end of the meeting.

Following the meeting, the Appellate Body is to circulate its report to the Members within 60 days after the date of filing of a Notice of Appeal. The proceedings should not exceed 90 days in any case (paragraph 5, Article 17 of DSU). Unlike panel procedures, there is no rule concerning an interim report for appellate review procedures.

(5) Adoption of reports

A report prepared by the panel or the Appellate Body following the review process becomes the formal written recommendations of the DSB when adopted by the DSB. Regarding the adoption of panel reports, the DSU provides (in paragraph 1, Article 16) that "In order to provide sufficient time for the Members to consider panel reports, the reports shall not be considered for adoption by the DSB until 20 days after the date on which they have been circulated to the Members." It is also provided (in paragraph 4, Article 16 of DSU) that "within 60 days after the date of circulation of a panel report to the Members, the report shall be adopted at a DSB meeting." Regarding the adoption of reports of the Appellate Body, the DSU provides (in paragraph 14, Article 17) that "a report shall be adopted within 30 days after the date of circulation of the report to the Members." Together with a panel report, a report of the Appellate Body becomes the official written recommendations and rulings of the DSB once it is adopted at a DSB meeting.

(6) Implementation of recommendations

The DSU provides that at a DSB meeting held within 30 days after the date of adoption of the panel or Appellate Body report, the Member to which the recommendations are directed is supposed to express its intentions with respect to implementation of the recommendations mentioned in the report. If it is impracticable to comply immediately with the recommendations, the Member is given a reasonable period of time to do so. Such reasonable period of time may be decided by mutual agreement between the disputing parties concerned. However, in the absence of such mutual agreement, the parties may refer the decision to arbitration. In principle, an arbitrator usually is one of the three Appellate Body members who conducted the appellate review of the case concerned. The mandate of the arbitrator is to determine the "reasonable period of time" within 90 days after the date of the adoption of report. It is provided (in paragraph 3, Article 21 of DSU) that the reasonable period of time to implement the recommendations mentioned in a panel or Appellate Body report should, as a general rule, not exceed 15 months from the date of adoption of the report. It is also provided that the DSB should keep under surveillance the implementation of adopted recommendations and that the Member concerned should provide, after a certain period of time following the date of establishment of the reasonable period of

time, the DSB with a status report in writing of its progress in the implementation of the recommendations until the issue of implementation is resolved (paragraph 6, Article 21 of DSU).

In general, a panel or the Appellate Body recommends that the Member concerned bring a measure determined to be inconsistent with a covered agreement into conformity with that agreement. It does not usually give any specific instruction on how to implement the recommendations. Therefore, it is not unusual that disagreement arises between disputing parties as to the existence or consistency with the WTO Agreement of measures taken to comply with the recommendations. In this respect, the DSU provides (in paragraph 5, Article 21) that "such disagreement as to the existence or consistency with a covered agreement of measures taken to comply with adopted recommendations or rulings" may be referred to a panel. Such panel established for the purpose of determining whether there has been implementation of adopted recommendations or rulings ("compliance panel") is supposed to be composed of those panelists who served on the original panel. The panel is required to issue a report within 90 days after the date when disagreement is referred to the panel. Unlike regular panel procedures, establishment of the compliance panel does not have to be preceded by consultations. Generally, such panels meet only once. When the complaining party doubts that there has been appropriate implementation of adopted recommendations or rulings, it may request review by a compliance panel repeatedly without limitation. In addition, there is a precedent that compliance panel decisions may be appealed to the Appellate Body for review, although DSU does not have any provision providing for such process.

(7) Countermeasures

With the approval of the DSB, the complainant may take countermeasures, such as suspension of concessions, against the party who respondent's interests also in cases where it fails to implement the recommendations adopted by the DSB within a given reasonable period of time, provided that no agreement on compensation is reached between both parties. Specifically, it is provided that the complainant may request the DSB to suspend the application, to the Member concerned, of concessions or other obligations under covered agreements ("countermeasures") when such Member fails to bring the measures found to be inconsistent with a covered agreement into compliance

therewith within the said "reasonable period of time" or that a panel or the Appellate Body confirms a failure of such member to fully implement adopted recommendations (paragraph 2, Article 22 of DSU).

There are rules as to the sectors and level of countermeasures to be taken. For instance, it is provided (by Article 22 of DSU) that the complainant, when taking countermeasures, should first seek to target sector(s) that are the same as that to which the dispute concerned is associated, and also that the level of countermeasures should be equivalent to the level of the "nullification or impairment" caused. If the complainant considers that it is not practicable or effective to suspend concessions or other obligations with respect to the same sector(s), it may seek to suspend concessions or other obligations in other sectors under the same agreement (item (b), paragraph 3, Article 22 of DSU). In addition, if that party considers that it is not practical or effective to suspend concessions or other obligations with respect to other sectors under the same agreement, and that the circumstances are serious enough, it may seek to suspend concessions or other obligations under another covered agreement (item (c), paragraph 3, Article 22 of DSU). The latter practice is called "cross retaliation," and it can be represented by a case where retaliation for a violation of TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) involves the suspension of customs-related concessions under GATT. Such cross retaliation is one of the unique measures employed in the WTO dispute settlement mechanism, and was introduced as a result of the coverage of the WTO Agreement over not only goods but also services and intellectual property rights (However, GPA sets special provisions on prohibition of "cross retaliation." Paragraph 7, Article 22 stipulates that "any dispute arising under any Agreement …other than this Agreement shall not result in the suspension of concessions or other obligations under this Agreement, and any dispute arising under this Agreement shall not result in the suspension of concessions or other obligations under any other Agreement.").

In the case that the respondent objects to the contents or level of the countermeasures for which the complainant requested authorization, the matter may be referred to arbitration (paragraph 6, Article 22 of DSU). When arbitration is conducted, the resulting decision is taken into consideration for the authorization of countermeasures. The negative consensus method is applied to finalize the authorization of the DSB (paragraph 7, Article 22 of DSU).

2. DSU REVIEW NEGOTIATION

As mentioned above, the effectiveness of WTO dispute settlements has been greatly improved in comparison to that at the time of GATT. However, it is also true that problems that were not clear when the DSU was established have surfaced, including the increase in the burdens of panels and the Appellate Body due to the quantitative and qualitative increase in disputes and inadequacy of DSU procedures. In order to examine these problems, WTO Members agreed to initiate negotiations to improve and clarify the DSU (DSU Review Negotiation).

Based on the Marrakech Ministerial Declaration in 1994, the DSU review negotiation started in the special session of the WTO's Dispute Settlement Body (DSB), with an eye toward aim of completing the revision of DSU provisions from by the end of 1997. Especially in October 2001, which was immediately before the Doha Ministerial Conference, 14 countries, including Japan and Canada, submitted a joint proposal to the General Council Meeting about: (1) clarification of the sequencing of compliance panel and suspension of concession; (2) shortening the period of various dispute settlement procedures; and (3) strengthening the rights of third parties.

These discussions on DSU review, the DSU Review Negotiation was included in the Doha Ministerial Declaration although it was outside the framework of a single undertaking, and the deadline for concluding the negotiations was set for May 2003 (Paragraph 30 of the Doha Ministerial Declaration). After the Doha Ministerial Declaration, Members submitted various proposals and the negotiations could not be concluded by May 2003. In the framework agreement adopted in the General Council Meeting in July 2004, it was agreed to continue the DSU Review Negotiation. After this General Council Meeting, 7 countries, led by Canada and Norway, had discussions on the October 2001 submission, focusing on: (1) sequencing; and (2) procedures relating to termination of countermeasures. The Hong Kong Ministerial Declaration confirmed the policy to "continue to work towards a rapid conclusion of the negotiations" (Paragraph 34 of the Hong Kong Ministerial Declaration).

Currently, the DSU is functioning comparatively well, and discussions are continuing among the participating countries, based on the basic understanding that revisions should be limited to the minimum necessary. The proposals currently being discussed include a joint proposal by Japan and the European Communities on

"post-countermeasures" (procedure to lift countermeasures) and "sequencing,"; "securing the transparency of dispute settlement procedures" (opening panel meetings with the parties to the public) by the United States; and a joint proposal by seven countries, including Mexico, Argentina and Brazil, on "augmentation of third parties' rights." As mentioned above, this negotiation is outside the framework of the single undertaking of the Doha Round, but most of the negotiating countries – excluding India and Brazil – wish to conclude the negotiation at the same time as the Doha Round.

Reference	Status of DSU Review Negotiation

1. Background of Discussion

The DSU review negotiation was commenced based on a different negotiation mandate than the Doha Round, but is now aligned with the Round and negotiations occur at special meetings of the DSB.

Based on the decision made at the Marrakesh Ministerial meeting in 1994, the review negotiation was scheduled to be completed during 1998. The review was then, extended to the end of July 1999 by a General Council decision of December 1998. However, the discussions did not come to a conclusion and the period passed. Since then, the review was continued by interested countries in the form of informal consultations, and a joint proposal for DSU review was submitted to the General Council in 2000. However, discussions did not progress because major countries such as the United States and the EU did not participate in the proposal. Furthermore, just before the Doha Ministerial meeting of 2001, 14 countries including Japan, Canada and Norway submitted a joint proposal incorporating the clarification of sequencing (procedures for "judging whether the losing country is implementing DSB recommendations or not" and "the winning country imposing sanctions on the losing country for not implementing the recommendations") and the reduction of time frame (reduction of consultation periods, etc.), and aimed for the proposal to be adopted at the Doha Ministerial meeting. However, a new negotiation mandate for the improvement and clarification of DSU was given in paragraph 30 of the Ministerial Declaration and the due date for concluding the negotiation was set as May 2003, as an exception of a single undertaking.

As for negotiations after the Doha Ministerial meeting, monthly meetings were held since April 2002, and from 2003, detailed discussions based on revised provisions were held. A wide variety of ambitious proposals were presented by various the countries but an agreement was not achieved by May 2003, and so the negotiation period was extended for another year. Although discussions reopened in May 2004, when seven countries lead by Canada and Norway made a proposal with a focused argument (sequencing, termination procedure of countermeasures, etc.) that could lead to a consensus relatively easily, an agreement on the negotiation was not achieved by the due date, and it continued with the framework adopted at the General Council in July.

After the above General Council meeting, discussions were held based on the papers of the above seven countries and discussions were invigorated by proposals from

the EU, the United States and Japan. Aligned with the Round, in 2005, a draft text including the reviews gathered from each country after 2004 was to be summarized by the Ministerial meeting held in Hong Kong in December. However, the draft text could not be prepared by then as a result of stagnation due to the return of the chairman to his country (though still keeping his position as a chairman) in September 2005. The policy to "continue the discussions to achieve an agreement for the negotiation as soon as possible" was confirmed in the Hong Kong Ministerial Declaration (paragraph 34).

2. Current Status

The negotiation was suspended due to the suspension of the Round in July 2006. After December, informal meetings were held by the major countries and DSB special meeting restarted in 2007. In July 2008, the progress of the review negotiation and a draft text of reviews summarized by the chairman were submitted to the Trade Negotiations Committee. This text, which contains the progress of discussions for the negotiation, was evaluated as a foundation for future review negotiations, and all negotiation matters were discussed by May 2010 with the chairman's text as a basis. Since May 2010, effective discussions were held by introducing a new negotiation format such as informal meetings with small number of countries for each issue. In April 2011, as a general status report by the chairman, a chairman's document was issued with the chairman's text of July 2008 and the summaries of negotiation meetings after May 2010 attached.. It reported a certain degree of progress for most of the negotiated matters. On the other hand, the necessity for further discussions in order to achieve an agreement was also indicated in this document. Subsequently, general negotiation meetings, small group meetings, and consultations between the chairman and the respective countries have been held intermittently, as well as discussions on each negotiation matter.

The positions of major countries related to the negotiation are as follows.

(1) The United States

The United States is inclined toward enhancing governance by the countries concerned. Specifically, in July 2003, the clarification of panel procedures and published opinions were proposed and, in December of the same year, the United States, jointly with Chile, proposed an interim report procedure for the Appellate Body (a procedure to send an interim report to the countries concerned before sending a final report) and a procedure to weaken the status of panel and Appellate Body reports and to allow control by the countries concerned regarding the partial deletion, endorsement, etc. of a report based on the agreement of the countries concerned. After that, in June and October 2005, proposals were made based on the proposals of 2003, "clarification" and "control of the countries concerned".

(2) The EU

The EU is inclined toward judicialization of the dispute settlement procedure. In addition to being part of the above-described joint proposal of 14 countries including Japan, the EU proposed introduction of a standing panel and remand authority

(referring a case back to the panel where an Appellate Body is unable to make legal decisions due to the lack of confirmation of facts by the panel). Also, proposals such as mandatory compensation negotiations prior to taking countermeasures and the prohibition of “carousel” provisions (replacement of countermeasure items) were made. Proposals regarding the "procedure for terminating countermeasures" and "sequencing" were jointly made with Japan in 2005.

(3) G7 (Argentina, Brazil, India, Canada, Mexico, New Zealand, Norway)

Since the submission of the above-mentioned joint proposal in May 2004, the G7 countries strengthened cooperation to confront Japan, the United States and the EU. In February 2005, a joint proposal on the "expansion of rights of countries participating as third parties" was submitted.

(4) Developing Countries

In 2003, proposals were made from groups of African countries, India, LDCs, and China etc. The contents were diverse. Some such as the extension of time frame for consultations and submission due dates, are relatively easy to comprehend, but others reflect exaggerated proposals by developing countries, such as financial support for utilizing the dispute procedure and the strengthening of enforcement power against advanced countries (taking countermeasures and paying compensations collectively). In June 2006, India, Cuba and Malaysia proposed special and different treatment for the developing nations.

(5) Japan

Japan shares the position of the EU with regard to judicializing the dispute settlement procedures. In 2005, proposals related to the "procedure for terminating countermeasures" and the "sequencing" were jointly submitted and cooperation has been strengthened.

3. ACTUAL CONDITIONS OF USE OF GATT/WTO DISPUTE SETTLEMENT PROCEDURES

From the time of the former GATT, dispute settlement procedures – through consultation and panels – have been used relatively frequently. The number of panels established was low in the 1960s, but it increased rapidly in the latter half of the 1970s. After the inauguration of the WTO in January 1995, dispute settlement procedures again increased. From the inauguration in 1995 to February 2014, 474 cases (requests for consultation) have been initiated under the WTO dispute settlement procedures (Refer to Table II-17-3).

4. DISPUTES IN WHICH JAPAN WAS INVOLVED (AFTER WTO'S ENTRY INTO FORCE)

(1) Cases in which Japan was complainant

Name	Consultation requested	Panel establishment decided	Report adopted	Conclusion
United States－Imposition of Import Duties on Automobiles from Japan under Sections 301 and 304 of the Trade Act of 1974 (DS6)	May 1995	-	-	Mutually agreed solution (July 1995) (Invocation of unilateral measures was avoided)
Brazil－ Certain Automotive Investment Measures (DS51)	July 1996	-	-	Consultation suspended (Brazil effectively removed measures)
Indonesia－ Certain Measures Affecting the Automobile Industry (DS55, 64)	Oct. 1996	Jun. 1997	Jul. 1998 (Panel report was adopted)	Japan's claim was approved
United States－Measure Affecting Government Procurement (DS95)	Jul. 1997	Oct. 1998	-	Panel dissolved (Feb. 2002) (US measure judged as unconstitutional in the United States)
Canada－ Certain Measures Affecting the Automotive Industry (DS139)	Jul. 1998	Feb. 1999	Jun. 2000 (Appellate Body report was adopted)	Japan's claim was approved
United States－Anti-Dumping Act of 1916 (DS162)	Feb. 1999	Jul. 1999	Sep. 2000 (Appellate Body report was adopted)	Japan's claim was approved
United States－Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan (DS184)	Nov. 1999	Mar. 2000	Aug. 2001 (Appellate Body report was adopted)	Japan's claim was approved. Not fully implemented despite the compliance period being over
United States－Continued Dumping and Subsidy Offset Act of 2000 (The Byrd Amendment), (DS217)	Dec. 2000	Sep. 2001	Jan. 2003 (Appellate Body report was adopted)	Japan's claim was approved (Period for implementation has expired but it has not been put into practice)

Name	Consultation requested	Panel establishment decided	Report adopted	Conclusion
United States – Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan (DS244)	Jan. 2002	May 2002	Jan. 2004 (Appellate Body report was adopted)	Japan's claim was not approved
United States – Definitive Safeguard Measures on Imports of Certain Steel Products (DS249)	Mar. 2002	Jun. 2002	Dec. 2003 (Appellate Body report was adopted)	Japan's claim was approved
United States – Measures Relating to Zeroing and Sunset Reviews (DS322)	Nov. 2004	Feb. 2005	Jan. 2007 (Appellate Body report was adopted)	Japan's claim was approved
United States – Measures Relating to Zeroing and Sunset Reviews (DS322) (compliance panel)	-	Apr. 2008	Aug. 2009 (Appellate Body report was adopted)	Japan's claim was approved
European Union – Tariff Treatment of Certain Information Technology Products (DS376)	May. 2008	Sep. 2008	Aug.2010 (Panel report was adopted)	Japan's claim was approved
Canada –"Local Content Requirement" in the Ontario's Feed-in Tariff Program for Renewable Energy (DS412)	Sept.2010	Jul. 2011	May 2013 (Appellate Body report was adopted)	Japan's claim was approved
China - measures related to exports of rare earth materials, tungsten and molybdenum (DS433)	March 2012	Jul. 2012	-	-
Argentina - Import Restrictions on Wide-Ranging Goods(DS445)	Aug. 2012	Jan. 2013	-	-
China - AD Measure on Japanese High-Performance Stainless Steel Seamless Tubes (DS454)	Dec. 2012	May 2013	-	-
Russian Federation - Recycling Fee on	July 2013	-	-	Consultation suspended (Jan. 2014,

Name	Consultation requested	Panel establishment decided	Report adopted	Conclusion
Motor Vehicles (DS463)				measure corrected)
Ukraine - Definitive Safeguard Measures on Certain Passenger Cars (DS468)	Oct. 2013	-	-	Panel pending

(2) Cases for which Japan was respondent

Name	Complainant	Consultation requested	Report adopted	Conclusion
Taxes on Alcoholic Beverages (DS8, 10, 11)	European Communities, United States, Canada	Jun. 1995	Nov. 1996 (Appellate Body report was adopted)	Japan's claim was not approved
Measures Affecting the Purchase of Telecommunications Equipment (DS15)	European Communities	Aug. 1995	-	Mutually agreed solution (Sep. 1995)
Measures concerning Sound Recordings (DS28, 42)	United States, European Communities	Feb. 1996	-	Mutually agreed solution (Jan. 1997)
Measures Affecting Consumer Photographic Film and Paper (DS44)	United States	Jun. 1996	Apr. 1998 (Panel report was adopted)	Japan's claim was approved
Measures Affecting Distribution Services (Large-Scale Retail Store LawDS45)	United States	Jun. 1996	-	Essentially closed at consultation stage
Measures Affecting Imports of Pork (DS66)	European Communities	Jan. 1997	-	Essentially closed at consultation stage
Procurement of a Navigation Satellite (DS73)	European Communities	Mar. 1997	-	Mutually agreed solution (Jul. 1997)
Measures Affecting Agricultural Products (DS76)	United States	Apr. 1997	Mar. 1999 (Appellate Body report was adopted)	Japan's claim was not approved
Tariff Quotas and Subsidies Affecting Leather (DS147)	European Communities	Oct. 1998	-	Essentially closed at consultation stage
Measures Affecting the Importation of Apples (DS245)	United States	Mar. 2002	Dec. 2003 (Appellate Body report was adopted)	Japan's claim was not approved
Import Quotas on Dried Laver and Seasoned Laver (DS323)	Republic of Korea	Dec. 2004	Feb. 6, 2006 (Panel report, including the details of the case	Mutually agreed solution

Name	Complainant	Consultation requested	Report adopted	Conclusion
			only, was adopted)	
Countervailing Duties on Dynamic Random Access Memories from Republic of Korea (DS336)	Republic of Korea	Mar. 2006	Jan. 2008 (Appellate Body report was adopted)	Part of Japan's claim was not approved
Countervailing Duties on Dynamic Random Access Memories from Republic of Korea (DS336) (compliance panel)	Republic of Korea	Sep. 2008	-	Since the suspension of proceedings over 12 months, the authority for the establishment of the panel lapsed and the proceedings are finished (Mar. 2010)

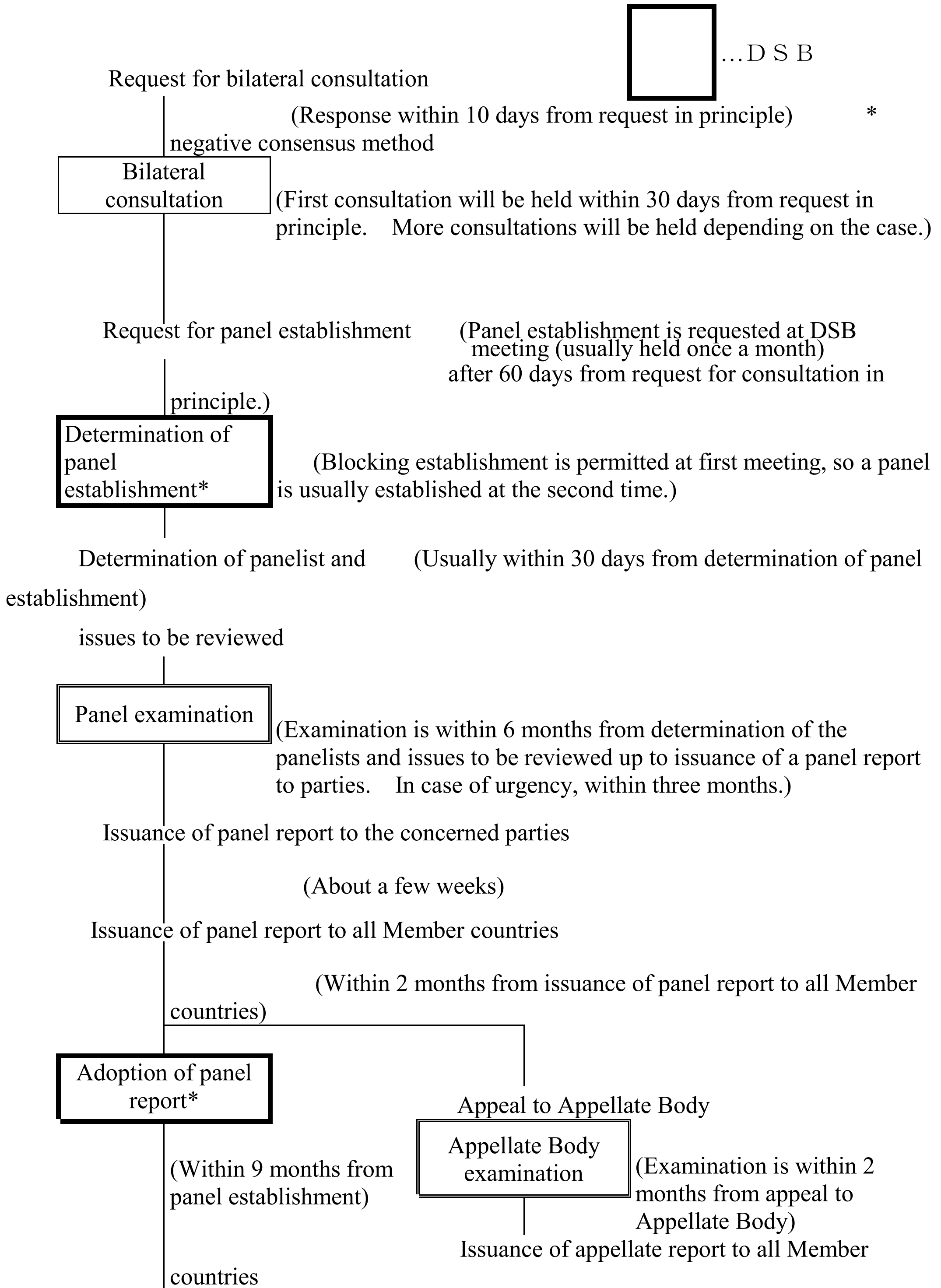
(3) Cases in which Japan was a third party (excluding cases essentially closed)

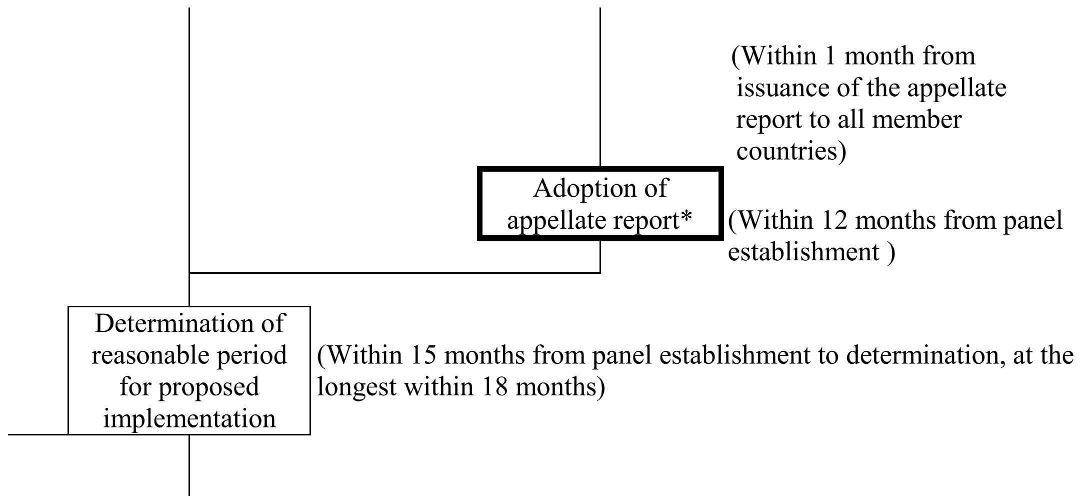
Name	Complainant	Stage
United States — Measures Affecting Trade in Large Civil Aircraft — Second Complaint (DS353)	EU	Compliance Panel
United States — Definitive Anti-Dumping and Countervailing Duties on Certain Products from China (DS379)	China	Confirming implementation
United States — Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products (DS381)	Mexico	Compliance Panel
United States — Certain Country of Origin Labelling (Cool) Requirements (DS384, 386)	Canada, Mexico	Compliance Panel
China - Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the US (DS414)	US	Confirming implementation
China - anti-dumping measures and countervailing duties on Broiler products from US (DS427)	US	Confirming implementation
India - measures for imports of agricultural products (DS430)	US	Panel
China - export restriction on rare earths, tungsten and molybdenum (DS431, 432)	US, EU	Panel
Australia - measures on tobacco packaging (DS434)	Ukraine	Panel
United States -countervailing duty measures on certain products including solar panels from China (DS437)	China	Panel
China – anti-dumping and countervailing duty measures on automobiles from the United States (DS440)	US	Panel
US – anti-dumping and countervailing duty measures on certain products from China (DS449)	China	Panel

Name	Complainant	Stage
Indonesia - Importation of horticultural products, animals and animal products (DS455)	US	Panel
China - Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from the European Union (DS460)	EU	Panel
Russian Federation - Recycling Fee on Motor Vehicles (DS462)	EU	Panel

(As of February 2014)

Figure II-17-1 Flow of Dispute Settlement Process in DSU





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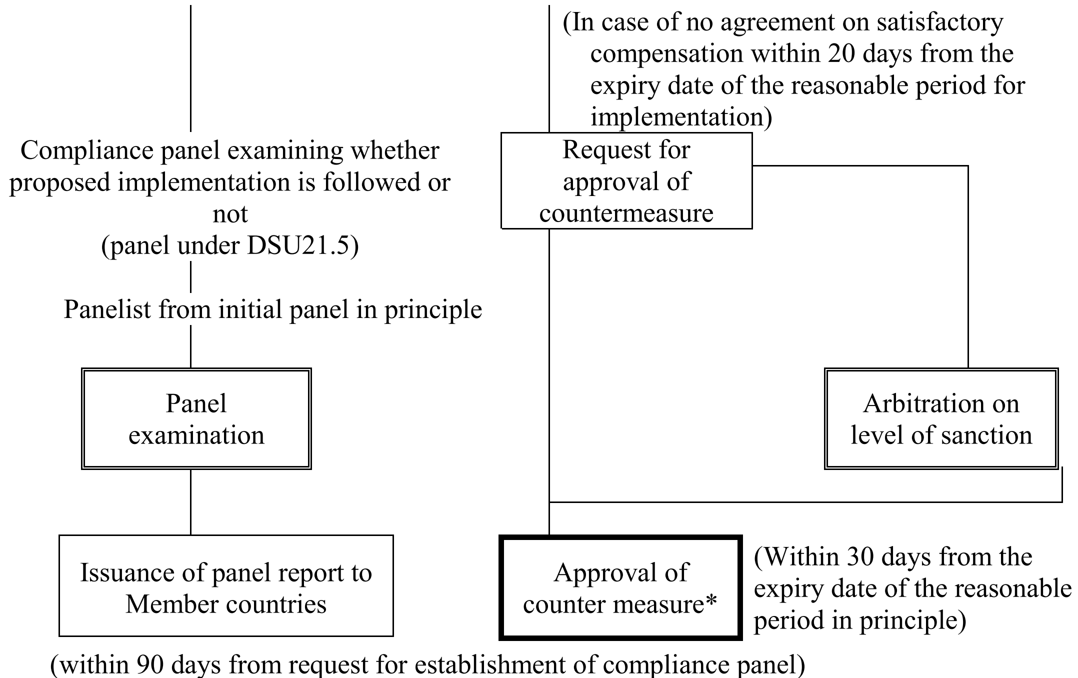


(within 90 days from request for establishment of compliance panel)

* In recent years, approval of countermeasures is usually requested after the compliance panel examination concludes.

Figure II-17-2 Past Requests for the Authorization of Countermeasures in the WTO Dispute Settlement Procedure

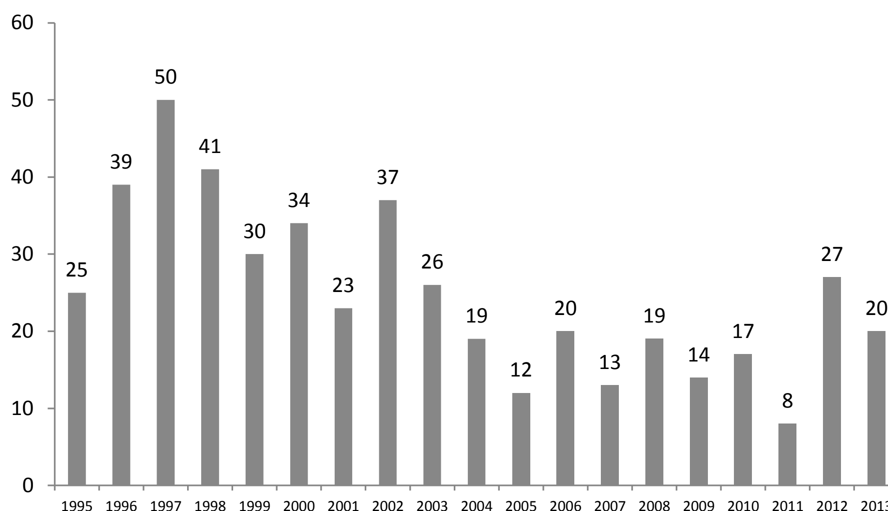
Case	Article 22.2 (Request for the authorization of countermeasures)	Article 22.6 (Extent of countermeasure and result of arbitration)	Result of the countermeasure
Australia: salmon (DS18: Canada)	Requested countermeasures of 4.5 million CAD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff)	No arbitration awarded. (Reached a bilateral agreement during the interruption of arbitration.)	-
EC: hormone-treated beef (DS26: U.S.)	Requested countermeasures of 202 million USD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff)	Countermeasures of 116.8 million USD per year in total by the U.S. were authorized.	The U.S. imposed a supplemental tariff on imports from EC in July 1999.
EC: hormone-treated beef (DS48 (merged with 26): Canada)	Requested countermeasures of 75 million USD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff)	Countermeasures of 11.3 million CAD per year in total by Canada were authorized.	Canada imposed a supplemental tariff on imports from EC in August 1999.
EC: banana (DS27: U.S.)	Requested countermeasures of 520 million USD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff)	Countermeasures of 191.4 million USD per year in total by the U.S. were authorized.	The U.S. imposed a supplemental tariff on imports from EC in April 1999. The U.S. lifted its countermeasures by July 2001, following an agreement reached between the U.S. and EC on measures to settle this dispute.
EC: banana (DS27: Ecuador)	Requested countermeasures of 450 million USD per year in total. (Cease of certain obligations under GATS and TRIPS)	Countermeasures of 201.6 million USD per year in total by Ecuador were approved.	Not invoked.
Brazil: aircraft (DS46: Canada)	(i) Cease application of certain obligations under GATT Article 6 (ii) Cease of certain obligations under textile agreement (iii) Cease application of certain obligations under import license procedures agreement (iv) Addition of supplemental tariff (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff) Requested above countermeasures of 700 million CAD per year in total.	Countermeasures of 344.2 million CAD per year in total by Canada were approved.	Not invoked.
Canada: dairy products (DS103: U.S.)	Requested countermeasures of 35 million USD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff)	No arbitration awarded. (Reached a bilateral agreement during the interruption of arbitration.)	-
Canada: dairy products (DS103: NZ)	Requested countermeasures of 35 million USD per year in total. (Cease application of concessions and other obligations under GATT1994 and	No arbitration awarded. (Reached a bilateral agreement during the interruption of arbitration.)	-

Case	Article 22.2 (Request for the authorization of countermeasures)	Article 22.6 (Extent of countermeasure and result of arbitration)	Result of the countermeasure
	impose supplemental tariff)		
U.S.: FSC (DS108: EC)	Requested countermeasures of 4 billion 430 million USD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff)	Countermeasures of 4 billion 430 million USD per year in total by EC were approved.	EC increased tariff on imports from the U.S. in phases from March 2004 to January 2005. The U.S. abolished FSC tax system in October 2004.
U.S.: 1916 AD Law (DS136: EC)	Enactment of "mirror act"	Accumulated amount paid by EC companies based on the final decision of the court or reconciliation.	Not invoked. (The U.S. abolished the 1916 AD Law in December 2004.)
U.S.: 1916 AD Law (DS162: Japan)	Enactment of "mirror act"	No arbitration awarded. (1916 AD Law abolished during the interruption of arbitration.)	-
U.S.: Copyright Act Section 110 (DS160: EC)	Requested countermeasures of 1.22 million Euro per year in total. (Cease of obligations under TRIPS agreement and addition of special expenses at national borders)	No arbitration awarded. (Reached a bilateral agreement during the interruption of arbitration.)	-
U.S.: Byrd Amendment (DS217: Japan, Brazil, EC, India, Republic of Korea)	Concession equivalent to the amount distributed annually based on the Byrd Amendment or cease of obligations. ((i) distributed funds attributable to the AD duties/countervailing duties imposed on the products of the country (ii) among the distributed funds above, the total of the proportionately divided parts of distributed funds attributable to the AD duties/countervailing duties imposed on the products of member states that did not request the authorization of countermeasures)	Among the amounts distributed to U.S. industries each year, amounts attributable to exports from requesting companies in question multiplied by 0.72	EC in May 2005 and Japan in September 2005 imposed supplemental tariff on imports from the U.S. Republic of Korea, India and Brazil did not invoke.
U.S.: Byrd Amendment (DS217: Chile)	Concession equivalent to the amount distributed annually based on the Byrd Amendment or cease of obligations. (Among funds distributed annually to domestic companies in the U.S., amount attributable to exports from Chile)	Among the amounts distributed to U.S. industries each year, amounts attributable to exports from requesting companies in question multiplied by 0.72	Not invoked.
U.S.: Byrd Amendment (DS234: Canada)	Supplemental tariff equivalent to the amount of annual distribution based on the Byrd Amendment, cease of certain obligations under GATT Article 6 and subsidiary agreement. ((i) distributed funds attributable to the AD duties/countervailing duties imposed on the products of the country (ii) among the distributed funds above, the total of the proportionately divided parts of distributed funds attributable to the AD duties/countervailing duties imposed on the products of member states that did not request the authorization of countermeasures)	Among the amounts distributed to U.S. industries each year, amounts attributable to exports from requesting companies in question multiplied by 0.72	Canada imposed supplemental tariff on imports from the U.S. in May 2005.
U.S.: Byrd	Cease application of obligations	Among the amounts	Mexico imposed

Case	**Article 22.2 (Request for the authorization of countermeasures)**	**Article 22.6 (Extent of countermeasure and result of arbitration)**	**Result of the countermeasure**
Amendment (DS234: Mexico)	pertaining to the area of products equivalent to the amount of annual distribution based on the Byrd Amendment. ((i) distributed funds attributable to the AD duties/countervailing duties imposed on the products of the country (ii) among the distributed funds above, the total of the proportionately divided parts of distributed funds attributable to the AD duties/countervailing duties imposed on the products of member states that did not request the authorization of countermeasures)	distributed to U.S. industries each year, amounts attributable to exports from requesting companies in question multiplied by 0.72	supplemental tariff on imports from the U.S. in August 2005. It imposed supplemental tariff on imports from the U.S. for a limited period from September to the end of October in 2006.
Canada: Aircraft 2 (DS222: Brazil)	(i) Cease application of certain obligations under GATT Article 6 (ii) Cease of certain obligations under import license procedures agreement (iii) Addition of supplemental tariff (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff) Requested above countermeasures of 3 billion 44.2 million USD per year in total.	Countermeasures of 447.8 million USD per year in total by Brazil were approved.	Not invoked.
Japan: Apple (DS245: U.S.)	(i) Addition of supplemental tariff (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff) (ii) Cease of certain concessions related to SPS agreement (iii) Cease of certain concessions related to agricultural agreement Requested above countermeasures of 143.4 million USD in total.	No arbitration awarded. (Reached a bilateral agreement during the interruption of arbitration.)	-
U.S.: Softwood IV (DS257: Canada)	Requested countermeasures of 200 million CAD per year in total. (Cease application of concessions and other obligations under GATT1994 (excessive taxation))	No arbitration awarded. (Reached a bilateral agreement during the interruption of arbitration.)	-
U.S.: Softwood V (DS264: Canada)	Requested countermeasures of 400 million CAD per year in total. (Cease application of concessions and other obligations under GATT1994 (amount equivalent to excessive taxation through zeroing))	No arbitration awarded. (Reached a bilateral agreement during the interruption of arbitration.)	-
U.S.: Raw Cotton (DS267: Brazil)	(i) Requested countermeasures of 1 billion 37 million USD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff) Considering it as insufficient, requested (ii) and (iii) below as well in addition to (i). (ii) Restriction on the protection of intellectual property rights (iii) Restriction on protection under GATS	Arbitration interrupted. (Now under the panel for the confirmation of implementation)	Not invoked. (Bilateral Agreement was concluded which provided Brazil would not impose the countermeasures as long as the mutually agreed framework is in effect.)
U.S.: OCTG (DS268:	Requested countermeasures of 44 million USD per year in total. (Cease	Arbitration interrupted.	-

Case	Article 22.2 (Request for the authorization of countermeasures)	Article 22.6 (Extent of countermeasure and result of arbitration)	Result of the countermeasure
Argentina)	application of concessions and other obligations under GATT1994 and impose supplemental tariff)	(At the time of sunset review, ITC had a negative determination of continuing Anti-dumping measures for OCTG imported from Argentina.)	
U.S.: Softwood VI (DS277: Canada)	Requested countermeasures of 4 billion 250 million CAD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff)	No arbitration awarded. (Reached a bilateral agreement during the interruption of arbitration.)	-
U.S.: Cross-Border Gambling (DS285: Antigua and Barbuda)	(i) Restriction on protection under GATS (ii) Restriction on the protection of intellectual property rights Requested above countermeasures of 3 billion 443 million USD per year in total.	Countermeasures through the cease of obligation based on TRIPS agreement to an extent not exceeding 21 million USD per year in total.	Not invoked.
EC: Genetically Modified Products (DS291: U.S.)	(i) Cease of application of concessions and other obligations under GATT1994 (ii) Cease of certain concessions related to SPS agreement (iii) Cease of certain concessions related to agricultural agreement Requested above countermeasures. (Level of the cease of obligations is equivalent to the annual lost earnings of the U.S. due to the measures taken by EC)	Arbitration interrupted. (Now before the panel for the confirmation of implementation)	-
US: Zeroing (DS294: EU)	Addition of supplementary tariff of 310.0 million USD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff)	Arbitration completed. (In February 2012, Japan and the US agreed to a Memorandum of Understanding, pursuant to which the US amended the DOC regulation to abolish the zeroing measure. In August 2012, pursuant to the Memorandum, Japan withdrew a request for arbitration by withdrawing the request for countermeasures.)	-
U.S.: Zeroing (DS322: Japan)	Addition of supplementary tariff of 248.5 million USD per year in total. (Cease application of concessions and other obligations under GATT1994 and impose supplemental tariff)	Arbitration completed. (In February 2012, the EU and the US agreed to a Memorandum of Understanding, pursuant to which the US amended the DOC regulation to abolish the zeroing measure. In June 2012, pursuant to the Memorandum, the EU withdrew a request for arbitration by withdrawing the request for countermeasures.)	-

Figure II-17-3 Changes in the Number of Dispute Cases



(Note) The number of dispute cases covers cases in which consultations are requested, equivalent to the dispute cases numbered.

Figure II-17-4

Consultations and Panels Based on Files Made by Japan in the History of GATT (including some exceptions)

(1) Consultations * Refer to (2) below for cases being shifted to a panel.

Subject	Counter-part country	Supporting clauses	Files made in	Period of discussion	Other status
Import restrictions	Italy	Paragraph 1, Article 22	Jul 1960		
Chassis cab (raise of tariffs through changes in tariff classification)	U.S.	Paragraph 1, Article 22 Paragraph 1, Article 23	Aug 1980 Apr 1982	Jul 1981 Nov 1982	No request made for panel
VTR (import restrictions)	Austria	Paragraph 1, Article 22	Mar 1981	Mar 1981 Nov 1981	Import restrictions abolished
VTR (import restrictions)	EC (France)	Paragraph 1, Article 23	Dec 1982	No consultation	France normalized customs procedures
Semiconductor (unilateral measure)	U.S.	Paragraph 1, Article 23	Aug 1987	Aug 1987	No request made for panel
Polyacetal resin (abuse of AD duties)	Republic of Korea	AD Code Paragraph 2, Article 15	Sep 1991	Oct 1991 May 1992	U.S. filed to the panel in October 1991 Panel adopted in April 1993

Inclusion of paid AD tax in costs (abuse of AD duties)	EC	AD Code Paragraph 2, Article 15	Apr 1992	Oct 1992 Apr 1993	Provisions in the new AD Agreement on this issue were clarified
U.S. market of photographic films and photographic papers	U.S.	1960 decision pertaining to the consultation on restrictive practices	Oct 1996		Request for consultation was received from the U.S. in June 1996. Consultation following files by both Japan and the U.S. had not been implemented so far.

(2) Panels

Cases	Counter-part country	Supporting clauses	Panel organized in	Reports distributed in	Report adopted in	Conclusion
Settlement on the definition of subsidies (Zenith case)	U.S.	Working group was established without going through consultation	May 1977 (Working group)	Jun 1977	Jun 1977	Japan's position was accepted
AD regulation on parts by EC (abuse of AD duties)	EC	Paragraph 2, Article 23	Oct 1988	Mar 1990	May 1990	Japan's position was accepted
Audio cassette (abuse of AD duties)	EC	AD Code Paragraph 5, Article 15	92.10	Apr 1995	Not adopted	

Figure II-17-5 Panels Filed to Japan in the History of GATT

	Country filed	Panel organized in	Panel report adopted in (report to committees adopted in)	Conclusion of the panel, etc.
Import restrictions by industrialized countries (Article 23)	Uruguay	Feb 1962	Nov 1962	Some of restrictions on primary products placed by 15 industrialized countries were ruled to be violations of GATT.
Import restrictions of silk threads	U.S.	Jul 1977	May 1978	Concluded through bilateral agreement.
Import restrictions of leather	U.S.	Jan 1979	Nov 1979	Concluded through bilateral agreement.
Import restrictions of leather	Canada	Nov 1979	Nov 1980	Concluded through bilateral agreement.
Import restrictions of tobacco products	U.S.	Feb 1980	Jun 1981	Concluded through bilateral agreement.
Import restrictions of leather	U.S.	Apr 1983	May 1984	Violation to Article 11 of GATT was approved.
Import restrictions of leather footwear	U.S.	Jul 1985		Concluded through bilateral agreement.
Import restrictions of twelve agricultural	U.S.	Oct 1986	Feb 1988	Application of GATT Article XI to national trade was ruled, and

	Country filed	Panel organized in	Panel report adopted in (report to committees adopted in)	Conclusion of the panel, etc.
products				violation to said article was identified.
Tariffs, inland duties and labeling pertaining to alcohol beverages	EC	Feb 1987	Nov 1987	Violation to Article III of GATT by the liquor tax system was ruled.
Third-country monitoring for semiconductors, etc.	EC	Apr 1987	May 1988	Violation to Article XI of GATT by third-country monitoring was ruled.
Tariffs on SPF processed materials	Canada	Mar 1988	Jul 1989	Wide scope of discretion approved in relation to tariff classification, and violation to Article XI of GATT was ruled.
Import restrictions of beef and citrus fruits	U.S.	May 1988		Concluded through bilateral agreement.
Import restrictions of beef	Aust-ralia	May 1988		Concluded through bilateral agreement.
Import restrictions of beef	New Zealand	May 1988		Concluded through bilateral agreement.