

**UNITED STATES - MEASURES CONCERNING THE
 IMPORTATION, MARKETING AND SALE OF
 TUNA AND TUNA PRODUCTS**

Recourse to Article 21.5 of the DSU by Mexico

Report of the Panel
 WT/DS381/RW/Add.1

*Adopted by the Dispute Settlement Body
 on 3 December 2015
 as Modified by the Appellate Body Report*

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ANNEX A

WORKING PROCEDURES OF THE PANEL

Adopted on 19 February 2014

1. In its proceedings, the Panel shall follow the relevant provisions of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU). In addition, the following Working Procedures shall apply.

General

2. The deliberations of the Panel and the documents submitted to it shall be kept confidential. Nothing in the DSU or in these Working Procedures shall preclude a party to the dispute (hereafter "party") from disclosing statements of its own positions to the public. Members shall treat as confidential information submitted by another Member to the Panel which the submitting Member has designated as confidential. Where a party submits a confidential version of its written submissions to the Panel, it shall also, upon request of a Member, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public.

3. The Panel shall meet in closed session. The parties, and Members having notified their interest in the dispute to the Dispute Settlement Body in accordance with Article 10 of the DSU (hereafter "third parties"), shall be present at the meetings only when invited by the Panel to appear before it.

4. Each party and third party has the right to determine the composition of its own delegation when meeting with the Panel. Each party and third party shall have responsibility for all members of its own delegation and shall ensure that each member of such delegation acts in accordance with the DSU and these Working Procedures, particularly with regard to the confidentiality of the proceedings.

Submissions

5. Before the substantive meeting of the Panel with the parties, each party shall transmit to the Panel a first written submission, and subsequently a written rebuttal, in which it presents the facts of the case and its arguments, and counter-arguments, respectively, in accordance with the timetable adopted by the Panel.

6. A party shall submit any request for a preliminary ruling at the earliest possible opportunity and in any event no later than in its first written submission to the Panel. If Mexico requests such a ruling, the United States shall submit its response to the request in its first written submission. If the United States requests such a ruling, Mexico shall submit its response to the request prior to the substantive meeting of the Panel, at a time to be determined by the Panel in light of the request. Exceptions to this procedure shall be granted upon a showing of good cause.

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7. Each party shall submit all factual evidence to the Panel no later than during the substantive meeting, except with respect to evidence necessary for purposes of rebuttal, answers to questions or comments on answers provided by the other party. Exceptions to this procedure shall be granted upon a showing of good cause. Where such exception has been granted, the Panel shall accord the other party a period of time for comment, as appropriate, on any new factual evidence submitted after the substantive meeting.

8. Where an original exhibit is not in the language of the submitting party's written submissions, that party shall also submit a translation in the language of its written submissions. The Panel may grant reasonable extensions of time for the translation of such exhibits upon a showing of good cause. Any objection as to the accuracy of a translation should be raised promptly in writing. Any objection shall be accompanied by a detailed explanation of the grounds of objection and an alternative translation.

9. To facilitate the maintenance of the record of the dispute, and maximize the clarity of submissions, each party and third party shall sequentially number its exhibits throughout the course of the compliance proceedings. For example, exhibits submitted by Mexico could be numbered MEX-1, MEX-2, etc. If the last exhibit in connection with the first submission was numbered MEX-5, the first exhibit of the next submission thus would be numbered MEX-6. The first time a party or third party submits to the Panel an exhibit that corresponds to an exhibit submitted in the original panel proceedings, the party or third party submitting such exhibit shall also identify the number of the original exhibit in the original panel proceedings.

Questions

10. The Panel may at any time pose questions to the parties and third parties, orally in the course of the substantive meeting or in writing.

Substantive meeting

11. Each party shall provide to the Panel the list of members of its delegation in advance of the meeting with the Panel and no later than 6.00 p.m. the previous working day.

12. The substantive meeting of the Panel shall be conducted as follows:

- a. The Panel shall invite Mexico to make an opening statement to present its case first. Subsequently, the Panel shall invite the United States to present its point of view. Before each party takes the floor, it shall provide the Panel and other participants at the meeting with a provisional written version of its statement. In the event that interpretation is needed, each party shall provide additional copies to the interpreters. Each party shall make available to the Panel and the other party the final version of its statement, preferably at the end of the meeting, and in any event no later than 6.00 p.m. on the first working day following the meeting.

- b. After the conclusion of the statements, the Panel shall give each party the opportunity to ask questions or make comments, through the Panel. Each party shall send in writing, within a timeframe to be determined by the Panel, any questions to the other party to which it wishes to receive a response in writing. Each party shall be invited to respond in writing to the other party's questions within a deadline to be determined by the Panel.
- c. The Panel may subsequently pose questions to the parties. The Panel shall send in writing, within a timeframe to be determined by it, any questions to the parties to which it wishes to receive a response in writing. Each party shall be invited to respond in writing to such questions within a deadline to be determined by the Panel.
- d. Once the questioning has concluded, the Panel shall afford each party an opportunity to present a brief closing statement, with Mexico presenting its statement first.

Third parties

13. The Panel shall invite each third party to transmit to the Panel a written submission prior to the substantive meeting of the Panel with the parties, in accordance with the timetable adopted by the Panel.

14. Each third party shall also be invited to present its views orally during a session of the substantive meeting, set aside for that purpose. Each third party shall provide to the Panel the list of members of its delegation in advance of this session and no later than 6.00 p.m. the previous working day.

15. The third party session shall be conducted as follows:

- a. All third parties may be present during the entirety of this session.
- b. The Panel shall first hear the arguments of the third parties in alphabetical order. Third parties present at the third-party session and intending to present their views orally at that session, shall provide the Panel, the parties and other third parties with provisional written versions of their statements before they take the floor. Third parties shall make available to the Panel, the parties and other third parties the final versions of their statements, preferably at the end of the session, and in any event no later than 6.00 p.m. of the first working day following the session.
- c. After the third parties have made their statements, the parties may be given the opportunity, through the Panel, to ask the third parties' questions for clarification on any matter raised in the third parties' submissions or statements. Each party shall send in writing, within a timeframe to be determined by the Panel, any questions to a third party to which it wishes to receive a response in writing.
- d. The Panel may subsequently pose questions to the third parties. The Panel shall send in writing, within a timeframe to be

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determined by it, any questions to the third parties to which it wishes to receive a response in writing. Each third party shall be invited to respond in writing to such questions within a deadline to be determined by the Panel.

Descriptive part

16. The description of the arguments of the parties and third parties in the descriptive part of the Panel report shall consist of executive summaries provided by the parties and third parties, which shall be annexed as addenda to the report. These executive summaries shall not in any way serve as a substitute for the submissions of the parties and third parties in the Panel's examination of the case.

17. Each party shall submit an executive summary of each of its written submissions and a consolidated executive summary of its opening and closing oral statements, as applicable, at the latest 7 calendar days following the delivery to the Panel of the written version of the relevant submission or statement. A party may include its responses to questions in the executive summary of its statements. In that case, the executive summary, covering the party's statements and responses to questions, shall be submitted at the latest 7 calendar days following the delivery to the Panel of its written responses to questions. The Panel will not summarize in the descriptive part of its report, or annex to its report, the parties' responses to questions. The total length of these summaries shall not exceed 30 pages.

18. The third parties shall submit executive summaries of their written submission and oral statements at the latest 7 calendar days following the delivery to the Panel of the written version of the relevant submission or statement. A third party may include its responses to questions in the executive summary of its statement. In that case, the executive summary, covering the third party's statement and responses to questions, shall be submitted at the latest 7 calendar days following the delivery to the Panel of its written responses to questions. The total length of these summaries shall not exceed 6 pages.

Interim review

19. Following issuance of the interim report, each party may submit a written request to review precise aspects of the interim report and request a further meeting with the Panel in accordance with the timetable adopted by the Panel. The right to request such a meeting shall be exercised no later than at the time the written request for review is submitted.

20. In the event that no further meeting with the Panel is requested, each party may submit written comments on the other party's written request for review in accordance with the timetable adopted by the Panel. Such comments shall be limited to commenting on the other party's written request for review.

21. The interim report, as well as the final report prior to its official circulation, shall be kept strictly confidential and shall not be disclosed.

Service of documents

22. The following procedures regarding service of documents shall apply:
- a. Each party and third party shall submit all documents to the Panel by filing them with the DS Registry (office No. 2047).
 - b. Each party and third party shall file 3 paper copies of all documents it submits to the Panel. However, when exhibits are provided on CD-ROMS/DVDs, 5 CD-ROMS/DVDs and 2 paper copies of those exhibits shall be filed. The DS Registrar shall stamp the documents with the date and time of the filing. The paper version shall constitute the official version for the purposes of the record of the dispute.
 - c. Each party and third party shall also provide an electronic copy of all documents it submits to the Panel at the same time as the paper versions, in Microsoft Word format, either on a CD-ROM, a DVD or as an e-mail attachment. If the electronic copy is provided by e-mail, it should be addressed to *****@wto.org, with a copy to *****@wto.org, *****@wto.org and *****@wto.org. If a CD-ROM or DVD is provided, it shall be filed with the DS Registry.
 - d. Each party shall serve any document submitted to the Panel directly on the other party. Each party shall, in addition, serve on all third parties its written submissions in advance of the substantive meeting with the Panel. Each third party shall serve any document submitted to the Panel directly on the parties and all other third parties. Each party and third party shall confirm, in writing, that copies have been served as required at the time it provides each document to the Panel.
 - e. Each party and third party shall file its documents with the DS Registry and serve copies on the other party (and third parties where appropriate) by 6.00 p.m. (Geneva time) on the due dates established by the Panel.
 - f. The Panel shall provide the parties with an electronic version of the descriptive part, the interim report and the final report, as well as of other documents as appropriate. When the Panel transmits to the parties or third parties both paper and electronic versions of a document, the paper version shall constitute the official version for the purposes of the record of the dispute.

Modification of working procedures

23. The Panel may modify these working procedures after consulting with the parties.