

FN188. Supra, footnote 187, para. 10.36. Claims under Article XXIII:1(b) have been considered in the following reports: Working Party Report, Australia - Ammonium Sulphate, supra, footnote 58; Panel Report, Germany - Sardines, supra, footnote 58; Panel Report, Uruguayana Recourse to Article XXIII, adopted 16 November 1962, BISD 11S/95; Panel Report, Spain - Soyabean, supra, footnote 58; Panel Report, European Community - Tariff Treatment on Imports of Citrus Products from Certain Countries in the Mediterranean Region ("EC - Citrus Products"), L/5776, 7 February 1985, unadopted; Panel Report, European Economic Community - Production Aids Granted on Canned Peaches, Canned Pears, Canned Fruit Cocktail and Dried Grapes ("EEC - Canned Fruit"), L/5778, 20 February 1985, unadopted; Panel Report, Japan - Trade in Semi-Conductors, adopted 4 May 1988, BISD 35S/116; Panel Report, United States - Trade Measures Affecting Nicaragua, L/6053, 13 October 1986, unadopted; Panel Report, EEC - Oilseeds, supra, footnote 186; Panel Report, United States - Restrictions on the Importation of Sugar and Sugar-Containing Products Applied under the 1955 Waiver and under the Headnote to the Schedule of Tariff Concessions, adopted 7 November 1990, BISD 37S/228; Panel Report, Japan - Film, supra, footnote 187; Panel Report, Korea - Measures Affecting Government Procurement, WT/DS163/R, adopted 19 June 2000. We note that claims under Article XXIII:1(b) of the GATT 1947 were also examined in the Panel Report, European Economic Community - Follow-up on the Panel Report, Payments and Subsidies Paid to Processors and Producers of Oilseeds and Related Animal-Feed Proteins ("EEC - Oilseeds II"), 31 March 1992, BISD 39S/91, unadopted.

Including EEC - Oilseeds II, and the present dispute, there have, therefore, been 14 cases in which a claim under Article XXIII:1(b) has been considered by working parties, panels, and, now, the Appellate Body. In six of these cases, the claim under Article XXIII:1(b) was successful and, on three of these occasions, the report was adopted. The successful claims were made in: Australia - Ammonium Sulphate (adopted 3 April 1950), Germany - Sardines (adopted 31 October 1952), EC - Citrus Products (unadopted), EEC - Canned Fruit (unadopted), EEC - Oilseeds (adopted 25 January 1990) and EEC - Oilseeds II (unadopted).

FN189. See Panel Report, para. 8.263, which refers to the Panel Report in Japan - Film, supra, footnote 187, para. 10.50, and footnote 1214; and EEC - Oilseeds, supra, footnote 186, para. 144.

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