

UNITED STATES - IMPORT PROHIBITION OF CERTAIN SHRIMP
AND SHRIMP PRODUCTS

Request for the Establishment of a Panel by India

The following communication, dated 25 February 1997, from the Permanent Mission of India to the Permanent Mission of the United States and to the Dispute Settlement Body, is circulated at the request of that delegation.

I am writing to say that through a series of actions, including enactment of Section 609 of Public Law 101-162 amending the Endangered Species Act of 1973, 16 U.S.C 1531 et seq., promulgation of regulations and issuance of judicial decisions interpreting the law and regulations, the Government of the United States has implemented a partial embargo on the importation of certain shrimp and shrimp products which is inconsistent with its obligations under the Agreement Establishing the World Trade Organisation (WTO Agreement) including the General Agreement on Tariffs and Trade 1994 ("GATT"). Specifically, the embargo is inconsistent with at least the following three obligations under GATT 1994; (1) Article XI: 1 clearly states that no contracting party will impose prohibitions or restrictions on imports through quotas, licences or other measures; (2) the most-favoured-nation principle embodied in Article I:1 and (3) Article XIII:1 which states that all allowable prohibitions or restrictions on imports must be applied in a non-discriminatory manner.

In an effort to resolve these matters and pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") and Article XXII:1 of the GATT, on October 8, 1996, the Governments of India, Malaysia, Pakistan and Thailand requested consultations with the United States (see document WT/DS58/1). Subsequently, consultations were held on 19 November 1996, in Geneva, and thereafter letters were exchanged regarding points requiring further clarification. However, the participants failed to reach an understanding during the consultations.

Consequently, pursuant to Article XXIII of the GATT, the Government of India joins Malaysia and Thailand as a co-complainant and requests that a panel be established to settle this dispute in accordance with Article 6 of the DSU, with the standard terms of reference referred to in Article 7 of the DSU.