

**UNITED STATES – IMPORT PROHIBITION OF  
CERTAIN SHRIMP AND SHRIMP PRODUCTS**

Recourse by Malaysia to Article 21.5 of the DSU

The following communication, dated 12 October 2000, from the Permanent Mission of Malaysia to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 21.5 of the DSU.

---

On 6 November 1998, the Dispute Settlement Body (DSB) adopted the Appellate Body Report (WT/DS58/AB/R) and the Report of the Panel (WT/DS58/R) as modified by the Appellate Body in "United States-Import Prohibition Of Certain Shrimp And Shrimp Products". The Appellate Body found that while qualifying for provisional justification under Article XX (g), the import prohibition imposed under Section 609 of Public Law 101-162 fails to meet the requirements of the chapeau of Article XX, and therefore is not justified under Article XX of GATT 1994.

The Appellate Body Report also concluded as follows:

"The Appellate Body recommends that the DSB request the United States to bring its measure found in the Panel Report to be inconsistent with Article XI of the GATT 1994, and found in this Report to be not justified under Article XX of GATT 1994, into conformity with the obligations of the United States under the Agreement."

On 21 January 1999, the United States and Malaysia agreed to a 13-month reasonable period of time for the United States to comply with the recommendations and rulings of the Dispute Settlement Body. This expired on 6 December 1999. However, to date, the United States has not lifted the relevant import prohibition imposed under Section 609 of Public Law 101-162 and has failed to take the necessary measures to allow the importation of certain shrimp and shrimp products in an unrestrictive manner.

There is disagreement between Malaysia and the United States as to the existence or consistency with the GATT 1994 of measures taken by the United States to comply with the recommendations and rulings of the Dispute Settlement Body. Malaysia considers that in order to give effect to the Dispute Settlement Body's recommendations and rulings, the import prohibition is to be lifted immediately and to allow the importation of certain shrimp and shrimp products in an unrestrictive manner.

Malaysia hereby requests that this matter be referred to the original Panel pursuant to Article 21.5 of the Dispute Settlement Understanding. Malaysia also requests that the Panel find that by not lifting the import prohibition and not taking the necessary measures to allow the importation of certain shrimp and shrimp products in an unrestrictive manner, the United States has failed to comply

with the 6 November 1998 recommendations and rulings of the Dispute Settlement Body. Malaysia further requests that the Panel suggest that the United States should lift the import prohibition immediately and allow the importation of certain shrimp and shrimp products in an unrestrictive manner in order to comply with the said recommendations and rulings of the Dispute Settlement Body.

---