Decisions of the Appellate Body of the World Trade Organization

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Major topics addressed by the Appellate Body: meaning of ‘payments’ and ‘financed by virtue of governmental action’ in Article 9.1(c) of the Agreement on Agriculture.


Major topics addressed by the Appellate Body: Definition of a subsidy under Article 1.1 of the SCM Agreement; revenue which is ‘otherwise due’ and thus gives rise to a ‘financial contribution’ within the meaning of Article 1.1(a)(1)(ii) of the SCM Agreement; definition of an export subsidy under Article 3.1(a) of the SCM Agreement; measures taken to avoid double taxation under Footnote 59 of the SCM Agreement; application of Article III:4 of GATT to requirement of domestic content; obligation to withdraw subsidies under Article 4.7 of the SCM Agreement.


Major topics addressed by the Appellate Body: Articles 2.1 (incorporation by reference), 3 (national treatment), 15, 16 and 42 (enforcement) of TRIPS, Article 2.1

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(national treatment), Article 6 quinquies (enforcement ‘as is’), and Article 8 (trade names) of the Paris Convention, Article 17.6 of the DSU.


Major topics addressed by the Appellate Body: discrete determination of domestic investigating authority; procedural and substantive obligations of Article 5.1; ‘parallelism’ requirement in Articles 2 and 4; Articles 4.2, 9.1, 12.3 Safeguards Agreement.


Major topics addressed by the Appellate Body: passive observer status; withdrawal of appeal.


Major topics addressed by the Appellate Body: Article 11 DSU, Article 4.2 Agreement on Agriculture.

European Communities — Trade Description of Sardines, WT/DS231/AB/R, adopted 23 October 2002. European Communities, Appellant; Peru, Appellee; Canada, Chile, Ecuador, United States and Venezuela, Third Participants. Division: Bacchus, Abi-Saab, Baptista.

Major topics addressed by the Appellate Body: definition of ‘technical regulation’ under the TBT Agreement; definition of ‘relevant international standard’ under the TBT Agreement; Article 2.4 of the TBT Agreement; allocation of burden of proof under Article 2.4 of the TBT Agreement; amicus curiae briefs.


Major topics addressed by the Appellate Body: de minimis standard with respect to sunset reviews under Art. 21.3 of the Agreement on Subsidies and Countervailing Measures; evidentiary standard and determination of likelihood of continuation or recurrence of subsidization under Article 21.3 of the Agreement on Subsidies and Countervailing Measures; Panel terms of reference under Article 6.2 of the Dispute Settlement Understanding.

The full text of these reports is available on the EJIL’s website: www.ejil.org.