

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

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Question No. 30

Senator Ludwig asked the following question at the hearing on 31 October 2005:

- (a) How many – if any – international court cases is Australia currently facing?
- (b) What international bodies are they in?
- (c) What are the subjects of the cases, and what is Australia's position in each case?

The answer to the honourable senator's question is as follows:

There are no current cases before international courts or tribunals of which this Department would have primary carriage. Australia has the following cases before the World Trade Organization (WTO). The Department of Foreign Affairs and Trade has primary carriage of these cases, with assistance from this Department.

Australia as Complainant

European Communities - Export Subsidies on Sugar (WT/DS265)

The Appellate Body and Panel Reports in this dispute were adopted by the Dispute Settlement Body in May 2005. The Appellate Body upheld Australia's (and Brazil's and Thailand's) challenge to the European Communities' sugar export subsidies, ruling that all European Union (EU) sugar exports were subsidised and that the EU was not entitled to exclude any of those quantities nor any budgetary outlays on sugar export subsidies from its WTO-scheduled export subsidy commitments.

Arbitration proceedings to decide the EC's reasonable period of time for implementation in the dispute were finalised on 28 October. The arbitrator (Mr AV Ganesan of the Appellate Body) determined that the EC must implement the recommendations and rulings made in relation to the dispute by 22 May 2006. The EC is required to bring its subsidised exports of sugar within its WTO-scheduled annual limits of 1.273 million tonnes and expenditure on sugar export subsidies of 499.1 million Euros.

Australia as Respondent

Australia - Certain Measures Affecting the Importation of Fresh Fruit and Vegetables (WT/DS270)

This case has been brought against Australia by the Philippines, which has asserted that Australia is in breach of its obligations under certain WTO agreements, including the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). A panel to hear the case was established in August 2003, but its members have not yet been appointed.

Australia - Certain Measures Affecting the Importation of Fresh Pineapple (WT/DS271)

This case has been brought against Australia by the Philippines, which has asserted that Australia is in breach of its obligations under the General Agreement on Tariffs and Trade and the SPS

Agreement. Consultations were held in November 2002 at the request of the Philippines, but no panel has been established.

Australia – Quarantine Regime for Imports (WT/DS287)

This case has been brought against Australia by the EC, which has asserted that Australia is in breach of its obligations under the SPS Agreement. A panel was established in November 2003, but its members have not yet been appointed.

Australia is also participating in a number of WTO cases as a third party. This permits Australia to make submissions, both written and oral, in cases involving other WTO Members as complainants and respondents.