

WORLD TRADE ORGANIZATION

RESTRICTED

TN/DS/M/26

27 July 2005

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**Special Session of the Dispute Settlement Body
21 June 2005**

MINUTES OF MEETING

Held in the Centre William Rappard
on 21 June 2005

Chairman: Mr. David Spencer (Australia)

The Chairman welcomed delegations to the twenty-ninth meeting of the Special Session and said that the airgram for the meeting had been circulated in WTO/AIR/2591 and that the draft agenda (TN/DS/W/77) contained three items, namely: (i) discussion of contributions by participants and (ii) report of the Trade Negotiations Committee (TNC) and (iii) "Other Business". He said that no new contributions had been received from Members since the last meeting of the Special Session. However, Japan had indicated its preparedness to respond to questions posed by participants on its proposal at that meeting. He proposed giving the floor to Japan and thereafter to any delegation which wished also to return to its proposal. Under the second item, he said that he would provide an outline of the report he intended to submit to the TNC in July and would appreciate the support of delegations in that regard. With respect to "Other Business", he said that he would be making an announcement about the dates of future meetings. He asked whether any delegation would like to raise anything under this agenda item. There was no response from the floor and the agenda of the meeting was adopted.

1. Discussion of proposals from participants

1. The Chairman recalled that one of the proposals which was discussed at the last meeting was a joint contribution by the European Communities and Japan on "sequencing", which was circulated as Job(05)/71. He said that he would like to give the floor to the proponents, so that they could respond to questions which were posed by participants at the previous meeting of the Special Session. He asked the representative of Japan whether he would like the discussion to take place in the formal or informal mode.

2. The representative of Japan welcomed the opportunity to re-visit their proposal and said that in order to have a detailed and frank exchange of views, they would like the discussion to take place in an informal mode.

2. Report to the Trade Negotiations Committee

3. The Chairman said that the next meeting of the TNC was scheduled to take place on 21-22 July, while that of the General Council on 27 and 29 July. He recalled that a mini-Ministerial would take place in early July in Dalian, China and said that in preparation for these meetings, the Director-General had requested the Chairs of the respective negotiating groups to provide him with inputs into a document he would be preparing in early July on the state of the play in the negotiations. It was not certain what the outcome would be at the end of July. It was reasonable to assume that Ministers would be expecting constructive progress by July, and a very positive contribution to the

Hong Kong Ministerial Conference. He recalled that a preliminary discussion of the contribution of the Special Session to the July outcome had taken place at the previous meeting of the Special Session. He had indicated at that meeting that he would be undertaking further consultations with Members on the possible contents of the report to the TNC. After having carried out these consultations, it was his sense that delegations were of the view that some modest progress had been made in the last few months and that there was the need to intensify the pace of work after the summer break, if substantive results were to be obtained at the Hong Kong Ministerial Conference. It was evident that delegations were determined to work constructively and at a much more quickened pace to deliver positive results at Hong Kong. He suggested that the report to the TNC to be prepared under his own responsibility could contain the following elements: (i) that the Special Session had had constructive discussions on a number of issues, based on contributions by Members, and this had allowed good progress to be made in the negotiations; (ii) there was the need to intensify the process in the second half of the year with a view to presenting positive results to Ministers in Hong Kong. He asked whether any delegation would like to comment on the suggested approach.

4. The representative of the European Communities expressed support for the approach outlined by the Chairman.

5. The Chairman thanked the European Communities for its support and said that he would therefore be submitting a report along the lines suggested to the TNC at its meeting in July. He also said that he would also be reporting to the Director-General on his assessment of progress in the DSU negotiations, in order to assist him in his preparations for the meetings that would take place in July. Regarding organization of work until the end of the year, he said that it was obvious that delegations would have to work harder in the months of September, October, November and December. He reiterated that it would be a mistake for delegations to think that he would produce a draft text on his own. It was the responsibility of delegations to narrow their differences and agree on a text which could eventually be the agreement to emerge from the negotiations. He said that he was committed to a bottom-up approach and it was up to delegations to provide the ideas and texts and the convergences that were necessary for substantive progress in the negotiations. For progress to be made, it would be necessary to meet as frequently as possible and also in different formats and configurations. It would also be necessary to focus on draft legal texts rather than on conceptual discussions.

6. The Chairman recalled that in May 2003, the Chairman of the General Council referred a number of special and differential treatment (S&D) proposals relating to the DSU, the so-called Category II proposals, for the consideration of the Special Session. He said that the July 2004 General Council Decision requested all WTO bodies to which proposals in Category II had been referred to "expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005". He said that it was his understanding that this issue would be taken up at the General Council meeting on 27 and 29 July, under an item on the S&D Work Programme. In this context, chairpersons of the various negotiating bodies to which proposals have been referred would be expected to make a statement on the progress made. As far as the Special Session was concerned, these S&D proposals have not been specifically discussed in the past few months. It would be more helpful to allow the process to unfold on the basis of inputs from delegations, until we had had a clearer sense of our overall direction. He proposed in that context to report to the General Council that the Special Session was not in a position to recommend a decision at this stage, but that it would do so in the future when work was relatively more advanced. However, if there was an interest among all delegations, it would be possible to discuss these Category II issues at the next meeting scheduled for 15 July. He asked for comments from delegations on his suggested approach.

7. The representative of Nigeria said that the African Group was reviewing the S&D issues and might table a proposal in the near future.

3. "Other Business"

8. The Chairman recalled that it had been agreed to hold the last meeting of the Special Session before the summer break on 28-29 July, and said that since the General Council would be meeting on 29 July, it might be advisable for the Special Session to move forward the date for its next meeting. He suggested that the meeting be held on 15 July and asked whether the proposed date was acceptable to delegations. His proposal was accepted by delegations, as there was no comment from the floor. Regarding future meetings after the summer break, he said that it would be necessary to schedule several days of meetings per month, and also to meet in a variety of formats and configurations in order to advance the negotiations. He reminded delegations that they would need to work harder and speed up the pace of the negotiations. Regarding future dates for meetings of the Special Session after the summer break, he said that he should be able to give some dates for the first couple of meetings likely to be held in the second-half of September at the next meeting of the Special Session, now scheduled to take place on 15 July.
