

**Special Session of the Dispute Settlement Body**  
**15 July 2005**

**MINUTES OF MEETING**

Held in the Centre William Rappard  
on 15 July 2005

*Chairman: Mr. David Spencer (Australia)*

The Chairman welcomed delegations to the thirtieth meeting of the Special Session and said that the airgram for the meeting had been circulated in WTO/AIR/2617 and that the draft agenda (TN/DS/W/78) contained two items, namely: (i) discussion of contributions by participants and (ii) "Other Business". With respect to the first agenda item, he said that two new contributions had been received from Members since the last meeting of the Special Session. These were an informal contribution by the European Communities on panel composition, circulated as Job(05)/144 and a contribution by the United States on "some practical considerations in improving the dispute settlement understanding of the WTO related to transparency and open meetings, circulated as TN/DS/W/79. He suggested that the Special Session focus on these two contribution under the first agenda item. With regard to "Other Business", he said that he would be making an announcement about the dates of future meetings of the Special Session. 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 the European Communities had previously submitted proposals on panel composition and invited its representative to present the new proposal. Before giving him the floor, he asked whether they would like to make the presentation in a formal or an informal mode.

2. The representative of the European Communities indicated that they would like the presentation and subsequent discussion to take place in an informal mode.

3. The Chairman invited the representative of the United States to present the new proposal and asked whether they would like to do so in a formal or an informal mode. The representative of the United States said that they would like to make the presentation of the proposal in a formal mode, but the discussion could take place in an informal mode, whereupon the Chairman asked him to proceed.

4. The representative of the United States welcomed the opportunity to introduce the contribution of the United States on transparency and open meetings, circulated to Members as TN/DS/W/79. He said that the United States had maintained from the beginning of these negotiations that one important improvement in the dispute settlement system was to provide for more transparency in proceedings. As Members might recall, in these negotiations the United States was proposing: (i) open meetings; (ii) timely access to submissions; and (iii) timely access to final reports. The United States had also suggested that Members might wish to consider whether it would be helpful to have guidelines for handling *amicus curiae* submissions. He said that the United States was ready to discuss further any of these proposals. At the present meeting, however, the United States

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wished to briefly highlight some of the benefits and practical considerations of having meetings of panels, the Appellate Body, and arbitrators open to all WTO Members and the public. In terms of benefits, first, the United States would note that the fact that the public and WTO Members in general had been unable to observe proceedings meant that the WTO had missed the opportunity to show the high quality of dispute settlement proceedings. Second, open meetings could help facilitate implementation of DSB recommendations and rulings since those asked to implement would have greater confidence in the process that resulted in those recommendations and rulings. In terms of practical considerations, the United States had suggested observations in four areas: (i) physical presence in the room where the meeting was taking place; (ii) alternatives to physical presence in the room; (iii) safeguarding of confidential information; and (iv) modalities for holding open meetings. The United States recognized that Members had only just received the further contribution so it would not expect more than preliminary reactions at the present meeting. The United States would hope to have an ongoing series of informal and formal discussions over the next period of time

## **2. "Other Business"**

5. The Chairman recalled that he had stated at the previous meeting that delegations would have to intensify work after the summer break with a view to presenting positive results to Ministers at the Hong Kong Ministerial Conference. He further recalled that he had stated that the Special Session should focus on draft legal texts submitted as contributions from delegations after the summer break. Regarding dates for future meetings, he said that it was still possible for the Special Session to meet on 28-29 July, but given the intense level of activity that could be expected in that week, it would be advisable to postpone the meeting, unless delegations felt that there was still some technical work that could usefully be carried out before the summer break. For the rest of the year, he said that he had already foreshadowed several days of meetings per month, including informal meetings in various formats and configurations, while preserving sufficient time for delegations to meet among themselves as necessary. He proposed that the Special Session meet on the following dates: 23 September; 24-25 October; 14 November and 5 December. He said that the informal meetings would be held around those dates and asked whether the suggested dates were acceptable to delegations. As there was no comment from the floor, the Chairman thanked delegations for accepting his proposal. He reminded delegations that as agreed at the previous meeting, he would be reporting to the TNC on the recent work conducted by the Special Session and the objectives for the Hong Kong Ministerial Conference and also to report to the General Council on the special and differential treatment proposals referred to the Special Session.

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