

**Special Session of the Dispute Settlement Body
22 September 2005**

MINUTES OF MEETING

Held in the Centre William Rappard
on 22 September 2005

Chairman: Mr. David Spencer (Australia)

The Chairman welcomed delegations to the thirty-first meeting of the Special Session and said that the airgram for the meeting had been circulated in WTO/AIR/2650 and that the draft agenda (TN/DS/W/80) contained two items, namely: (i) discussion of contributions by delegations and (ii) "Other Business". With respect to the first agenda item, he said that a new informal contribution on remand authority for the Appellate Body had been received from Korea. This document had been circulated as Job(05)/182. With regard to "Other Business", he said that he would be making an announcement about the date and agenda of the next meeting 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 delegations

1. Before giving the floor to Korea, the Chairman informed delegations that he had met over the last couple of days with a number of delegations, both individually and in groups with a view to making progress in the negotiations. He recalled that in his statement to the Trade Negotiations Committee the week before, he had assured that the Special Session would intensify its work in the coming weeks and present Ministers with a snapshot of progress in the negotiations. The DDA negotiations were entering a new phase, as preparations for the Hong Ministerial Conference had begun in earnest. There was the sense among the delegations that work should be intensified across all fronts, so that the negotiations could be completed by the end of next year. The main objective of the recent consultations was to explore whether common ground could be found in the positions of delegations on the issues under negotiation, including sequencing, post-retaliation, third party rights, remand, transparency, panel composition and time savings.

2. He said that the consultations had been very useful, but he could not say that positions had started to converge, nor could he say that solutions have been found in any of the areas. However, they had helped delegations to gain a better understanding of each other's positions and expectations. There had been good signs of constructive engagement, but it was imperative for delegations to intensify their efforts in the next few months if substantial progress was to be reported at the Hong Kong Ministerial Conference. He encouraged delegations to continue consulting each other with a view to narrowing down differences and paving the way for consensus to be achieved on some issues. He recalled that the Group of Six (Argentina, Brazil, Canada, India, New Zealand and Norway) had tabled a proposal on remand which had led to a lively discussion of the issue. He then invited Korea to introduce its proposal which advocated a slightly different approach from that of the Group of Six.

3. The representative of Korea thanked the Chairman for giving his delegation the opportunity to present informally their proposal on remand authority for the Appellate Body. After the introduction of the proposal, there was an informal exchange of views among Korea and other delegations.

4. The representative of the United States thanked Korea for its proposal which had highlighted that the issue of remand was more complex than it might perhaps at first appear, particularly as it affected implementation. The proposal also showed yet another way in which an interim report at the Appellate Body stage could be useful. He recalled that the United States and Chile had already proposed that there should be an interim report at the Appellate Body stage. He said that the United States had posed a number of questions to Korea and looked forward to further discussions with it.

5. The Chairman thanked Korea for its contribution and asked whether any delegation which had participated in any of the informal processes would like to report on the outcome of their meetings. He further asked whether any delegation intended to submit in the near future a proposal for the consideration of the Special Session.

6. The representative of the United States said that his delegation was finalising an elaboration of its proposal on further guidance to WTO adjudicative bodies, which it had presented in the form of questions thus far. He said that the proposal should be ready by the time of the next meeting of the Special Session.

7. The representative of Canada recalled that his delegation had tabled a proposal on procedures to protect business confidential information in 2003 and had received very useful comments on the proposal from delegations. In light of the positive feedback, Canada was in the process of redrafting its proposal, which it hoped to submit by the time of the next meeting of the Special Session.

8. The Chairman urged delegations which intended to submit contributions do so as soon as possible, so as to allow enough time for their consideration by the Special Session. Time was short and it was imperative to have an idea as to which elements should be included in the report to the Hong Kong Ministerial Conference.

2. "Other Business"

9. The Chairman said that the next meeting of the Special Session was scheduled to take place on 24 and 25 October 2005. He said that given the overall developments in the negotiations, it might be necessary to schedule other meetings on short notice. In terms of the agenda for the next meeting, he said that there could be a discussion of new contributions from delegations. He recalled in that regard that Canada and the United States had already indicated that they would soon be submitting proposals for the consideration by the Special Session. He further stated that it was his intention to have a discussion on Category II Special and Differential Treatment (S&D) proposals referred to the Special Session for its consideration by the General Council in May 2003. These proposals had been discussed in the past, but it was necessary to revisit them and explore the possibility of building a consensus around them. It would be extremely useful if the proponents could take a lead in the discussions by introducing their proposals and explaining their underlying reasons.
