

**Dispute Settlement Body
Special Session**

SPECIAL SESSION OF THE DISPUTE SETTLEMENT BODY

Report by the Chairman, Ambassador Péter Balás,
to the Trade Negotiations Committee

I. STATUS OF WORK

1. Since the Chairman's last report to the TNC on 2 October 2002, the Special Session of the DSB held its fifth and sixth formal meetings, on 14 October and on 13-15 November respectively.
2. At the fifth formal meeting held on 14 October, discussions centred on new proposals submitted by the African Group (TN/DS/W/15), Paraguay (TN/DS/W/16), the LDC group (TN/DS/W/17) and Jamaica (TN/DS/W/21), as well as two joint proposals by India and other developing country Members (TN/DS/W/18 and TN/DS/W/19). The formal meeting was followed by an informal examination of specific negotiating issues on the basis of an updated version of the Checklist of Issues circulated by the Chairman. Following on the previous such discussion at the fourth meeting of the Special Session, discussions focussed on panel proceedings. These discussions are reflected in a Chairman's Summary (circulated as Job(02)130/Add.1).
3. At the sixth formal meeting on 13 November, two further new proposals by Japan (TN/DS/W/22) and Mexico (TN/DS/W/23) were formally discussed for the first time. The examination of these new proposals was followed again by a continuation of the informal discussion on an issue-by-issue basis. In this context, participants exchanged views on panel working procedures, the Appellate Body and Appellate review, as well as the surveillance of implementation of DSB recommendations. An informal summary of these discussions will be circulated by the Chairman (as Job(02)130/Add.2).
4. The proposals circulated to date are reflected in the latest updates of the informal Compilation of Proposals (Job(02)42/Rev.6) and Checklist of Issues (Job(02)86/Rev.5) circulated by the Chairman.

II. OUTSTANDING ISSUES

5. A total of 16 proposals for clarifications and improvements to the DSU have now been submitted, and another contribution, by Chinese Taipei, is to be circulated soon. These proposals cover a broad range of issues relating to all stages of the dispute settlement procedures and reflect a wide range of perspectives. The Chairman has welcomed the engagement of participants, including developing country Members, reflected in these proposals.
6. As noted above, the details of these proposals are being examined sequentially in the context of an "issue-by-issue" discussion. Discussions so far have focussed on consultations, panel proceedings (including the establishment and composition of panels, as well as specific aspects of panel procedures, such as third party rights, opening access to submissions or meetings, or the definition of panels' mandate), appellate proceedings (including the issue of the number of Appellate Body members and the possibility of remand authority) and issues relating to implementation and the

surveillance of implementation. Various proposals relating to special and differential treatment are being considered in the course of these discussions, as an integral part of this process. These discussions have been very helpful in clarifying the scope and implications of various aspects of the proposals. They have not yet, however, led to the clear identification of possible consensus areas.

7. The Chairman has indicated his intention to continue this "issue-by-issue" discussion with a view to completing as soon as possible a full initial exploration of all negotiating issues, which would contribute to a further clarification of the areas in which consensus might be achieved.

8. In light of the short time-frame foreseen for the completion of the negotiations and the large number of issues now before the Special Session, participants will need to continue to engage very actively in order to reach agreement by May next year on clarifications or improvements to the DSU, on the basis of the highest common denominator.

III. FUTURE WORK

9. The next meeting of the Dispute Settlement Body in Special Session will be held from 16-18 December, and it is expected that the informal "issue-by-issue" discussion will be continued and hopefully completed at that stage. Subsequently, the work of the Special Session will focus on a further exploration of the scope for consensus on an agreed text by the mandated deadline of May 2003.

10. For this purpose, meetings have been scheduled at the following dates for next year:

- 28, 29 and 30 January
- 17 and 18 February
- 10 and 11 March
- 10 and 11 April
- 19, 21 and 22 May.

The Chairman will also continue to consult informally with interested delegations and groups of delegations to supplement this process.
