

**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 28 November 2002, the Special Session of the DSB held its seventh and eighth formal meetings, on 16-18 December 2002 and on 28-30 January 2003 respectively. Informal meetings were also held on both occasions.

2. At the seventh formal meeting, on 16 December, discussions centred on new proposals submitted by Chinese Taipei, Ecuador, and jointly by the United States and Chile. This was followed by the completion of the informal examination of specific negotiating issues which had been initiated at previous meetings, on the basis of the Checklist of Issues circulated by the Chairman. The discussion focussed on remedies (compensation and the suspension of concessions and other obligation), as well as some "horizontal" issues, including third-party rights and special and differential treatment.

3. At that meeting, it was also agreed that from the January meeting, the work of the Special Session would switch from the "issues" based discussion to a discussion based on draft legal text of possible clarifications and improvements to the DSU. This discussion would be based directly on the text of proposals to be put forward by participants. The Chairman urged both delegations who had submitted proposals of a conceptual nature and those delegations who wished to submit or re-submit legal text, to submit all such proposals by mid-January so that the proposed text could be included in a compilation to be made available by the next meeting at the end of January 2003.

4. Accordingly, a number of new proposals containing draft text was submitted by a broad range of Members and groups of Members prior to the eighth formal meeting of the Special Session. At that meeting, held on 28-30 January, the examination of specific draft text submitted by participants was initiated, as agreed. This discussion was conducted mainly informally, on the basis of an informal compilation of draft text issued by the Chairman (in Job(03)10 and Job(03)10/Add.1). In this context, proposed text relating to Articles 3 to 9 of the DSU was discussed. These discussions covered general issues (including the consideration of development implications by panels), consultations, the establishment and composition of panels, and multiple complainants. Participants also discussed further the proposal submitted by the US and Chile at the previous meeting, and China introduced a new proposal.

II. OUTSTANDING ISSUES

5. After the conduct of general discussions, the submission of proposals, and the completion of an initial discussion of negotiating proposals "issue-by-issue" last year, the negotiations have now entered in to a fourth phase, with the discussion of specific draft text. In this context, a total of 14 new contributions for clarifications and improvements to the DSU were received in preparation of the

eight formal meeting of the Special Session in January, and the discussion of specific proposed draft text has begun, with the understanding that this is without prejudice to any participant's views on the issues discussed. As previously, the draft text proposals cover a range of issues relating to all stages of the dispute settlement procedures and reflect a wide range of perspectives. This is a very important and welcome sign of delegations' continued commitment to the mandate of agreeing on clarifications and improvements to the DSU. The Chairman has welcomed, in this context, the efforts of Members in putting forward such draft text, including the efforts made by those who had previously submitted proposals of a conceptual nature in reflecting these ideas through draft text. He also welcomed and further encouraged the coordination of efforts among those delegations who had submitted proposals of comparable nature.

6. As noted above, the specific draft text proposals are now being examined sequentially, in the order of the DSU provisions which they relate to. As previously, proposals relating to special and differential treatment are being considered in the course of these discussions, as an integral part of the process. This first discussion of proposed draft text is expected to be completed at the latest by the March meeting and should facilitate further progress towards an agreed text.

7. The initial discussions held in January were very constructive and continue to testify to participants' attachment to the clarification and improvement of the WTO's dispute settlement system. Nonetheless, given the number and range of issues covered in the proposed text, a considerable amount of further effort will be required to complete the first discussion of this text by the March meeting. Furthermore, participants will need to continue to engage very actively until the mandated deadline in order to reach agreement by May on clarifications or improvements to the DSU.

III. FUTURE WORK

8. As described in the Chairman's previous report, the Special Session is scheduled to meet every month until May. Additional open-ended informal meetings of the Special Session may also be required in this period, in light of the heavy workload which is to be anticipated. The Chairman also expects to continue to consult informally with interested delegations and groups of delegations during that period. The next meeting of the Dispute Settlement Body in Special Session will be held on 17 and 18 February.
