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**Special Session of the Dispute Settlement Body  
20, 21 and 23 May 2003**

**MINUTES OF MEETING**

Held in the Centre William Rappard  
on 20, 21 and 23 May 2003

*Chairman: Mr. Péter Balás (Hungary)*

Prior to the adoption of the agenda, the Chairman welcomed participants to the twelfth formal meeting of the Special Session and said that the agenda for the meeting reflected two items, namely (i) discussion of the "Chairman's Text" and (ii) "Other Business". He recalled that at the informal meeting of the Special Session on 5 May, he had informed Members of his intention to circulate under his own responsibility a "Chairman's Text" for their consideration, and said that this text had now been circulated as Job(03)/91 in all the three working languages of the WTO and was available in the meeting room. He also said that two new documents had been circulated: a revised proposal by Jordan circulated as TN/DS/W/55 and a proposal by China circulated as TN/DS/W/56. He said that given the short time available until the end of May, it would be more productive if Members concentrated on his text under Agenda item 1. He said that delegations could make general statements on future work programme and provide specific comments on the draft "Chairman's Text". He said that it was his intention to switch the meeting to an informal mode, so that Members could offer detailed comments on the text and also have a frank exchange of views. He said that after the meeting, he would be meeting informally with Members in different formats and configurations with a view to building consensus on some elements in the text. He said that he did not intend to raise any issue under "Other Business" and asked if any delegation intended to do so. As there was no request from the floor, the item relating to "Other Business" was removed from the agenda.

**I. DISCUSSION OF THE "CHAIRMAN'S TEXT"**

1. The Chairman said that the draft text reflected proposals on which there was a high level of convergence among Members. To attract as much support as possible, the text had attempted to strike a careful balance between the interests of Members. He said that in proposing the text, he was mindful of the fact that the Dispute Settlement Understanding (DSU) had worked quite well and that the purpose of the negotiations was not to create a new system, but to clarify and introduce changes that would effectively improve the functioning of the system. He said that the proposed elements in the text covered all the stages of the dispute settlement process and should result in an improvement in the operation of the Dispute Settlement Understanding (DSU) through clarifying certain provisions and introducing new rules and procedures. Among the proposed elements were (i) specific provisions regulating the suspension or termination of the procedures at various stages; (ii) the introduction of an interim review stage and remand at the Appellate Body stage; (iii) enhancement of third-party rights, both at the panel and Appellate Body stage, as well as improved conditions for Members seeking to be joined in consultations; (iv) clarification the sequencing issue and enhanced procedures at the implementation stage; (v) enhancement of provisions relating to compensation; (vi) strengthening of notification requirements for mutually agreed solutions; (vii) improved transparency and access to non-confidential versions of submissions; and (viii) strengthening of special and differential treatment (S&D) provisions for developing countries at various stages of the

proceedings. The developmental content of the proposed text was quite significant. Apart from the proposed enhancement of S&D provisions, many of the systemic clarifications and improvements would benefit the weakest participants in the system. Indeed, quite a number of the proposed texts were influenced by proposals from developing countries. The text did not purport to be comprehensive. In fact, it did not include several proposals tabled by participants for the simple reason that they did not yet have a high level of support. The introductory note made it clear that further work would even be required in respect of some proposals in the text. These included how to handle business confidential information and the development of guidelines for the award of litigation costs.

2. The representative of Costa Rica welcomed the draft "Chairman's Text" and said that it reflected the discussions that had been held to date and that it appeared to contain the elements needed to reach an agreement by the end of May, in conformity with the mandate given by the Ministers at Doha. He said that Costa Rica supported the adoption of the text, although it did not include certain proposals that it had put forward. The text was balanced and it should be possible for a consensus to be reached on it in the coming days. The mandate given by Ministers was about to expire making it important for an agreement to be reached as soon as possible and implemented shortly thereafter as envisaged in the Doha Ministerial Declaration. An agreement on the DSU would send a positive signal regarding the determination of Members to make progress in all areas and reaffirm the Organization's role as the principal forum for trade negotiations.

3. He said that his delegation was conscious of the need for further work on some of the proposals included in the draft text. With respect to proposals not reflected in the text, he said that his delegation had an open mind and could support negotiations on them at a later date. He said that a decision to extend the timeframe for the negotiations should not prejudice acceptance of the proposed text. Put in another way, prior agreement on the substance of the proposals should not be a precondition for accepting any results that might be achieved at the end of May. He stressed the importance of keeping the DSU negotiations outside the single undertaking and said that his delegation could be relied on to play a constructive role in the negotiations.

4. The representative of Colombia thanked the Chairman and the Secretariat for preparing and circulating the draft text. She said that the text could be conveniently divided into two sections. The first section contained the introduction to the text and the Chairman's general observations on the process, as well as his interpretations of the positions adopted by Members in the course of the negotiations. It also provided guidance enabling readers to put things in perspective and gain a better understanding of the document. The second section was more substantive as it set out the changes which the Chairman wished to see introduced based on participants' contributions. She said that her delegation could support the main elements covered in this section of the document. It was balanced and should contribute to the strengthening of the dispute settlement system. While the text sought to strengthen the multilateral nature of the dispute settlement system by, for example, advocating for greater rights for third parties, it also at the same time increased the parties' control over the process and allowed them flexibility as regards both time-frames and the suspension of the disputes at different stages of the process.

5. She said that while Colombia supported the proposals put forward by the Chairman, it was conscious of the need for further technical work to finalize some of these proposals. Turning to the specifics, she said that her delegation would like a clarification of the scope of the third paragraph of the introductory section. It was particularly important to know whether the reference to "work" in that section meant the conclusion of the entire work under the Doha mandate. It was the understanding of her delegation that the Chairman was seeking an extension of the time-frame for the conclusion of the negotiations, in order to allow consideration of the proposals put forward in the draft text. If that was the case, the extension should probably be made before the end of May.

6. The Chairman confirmed that Colombia's understanding was correct as he was only seeking the adoption of the section of the document headed "Chairman's proposals" starting on page three of the document.

7. The representative of Uruguay said that since the negotiations were started fifteen months ago all those who had been involved – Members, Chairman and the Secretariat – had worked hard with a view to fulfilling the mandate given by Ministers under paragraph 30 of the Doha Ministerial Declaration. There were only nine days left to the end of May and as such the circulation of the draft text (JOB(03)/91) by the Chairman as the possible outcome of the negotiations was very timely. Given that the document had been circulated by the Chairman under his own responsibility, it should not be assumed that the proposed texts had been agreed to by Members, including those without square brackets around them. He said that although his delegation had some reservations against some elements in the text, they considered it as a good basis upon which Members could build and possibly adopt by the end of May 2003. He referred to the introductory note to the Chairman's text and requested clarification of the statement which linked acceptance by certain Members of the proposed text to an agreement to conduct future negotiations on proposals of interest to them which were not reflected in the text. It was not clear what was meant by future negotiations. Were they expecting the deadline of May 2003 to be extended to allow negotiations to continue after that date or were they referring to negotiations that could be undertaken in a couple of years? He said that as far as Uruguay was concerned, the relevant test was not whether the proponents attached importance to their own proposals, but whether they had managed to convince other Members of the value of their proposals making it possible for consensus to be achieved on them.

8. The representative of Thailand welcomed the circulation of Chairman's text as very timely. He said that it was his delegation's understanding that the text did not represent the final outcome of the negotiations, but rather a partial outcome based on the discussions to date. He said that his delegation was in agreement with the view that more time would be needed to complete the work mandated by Ministers. To that end, he suggested that a new mandate should be obtained as soon as possible, so as to allow work to continue. To ensure the timely discussion of proposals, it would be advisable if a deadline was set for the submission of proposals by participants. The systematic discussion of tabled proposals would make it possible for a comprehensive agreement to be reached at the conclusion of the negotiations.

9. The representative of Mexico thanked the Chairman for circulating the text and said that it contained several elements which his delegation could support. He welcomed in particular the proposed decisions on greater rights for third parties, lapse of authority for consultations and the possibility for the parties to the dispute to suspend panel and Appellate Body proceedings. He said that his delegation, however, had strong reservations against the text in at least three fundamental respects. First, the text did not resolve the problem of the lack of incentives to comply with the recommendations and rulings of the DSB. As things stood, it could be said that a waiver had been granted from the relevant WTO rules and procedures. This was unquestionably the greatest challenge facing the dispute settlement system, yet instead of resolving it, the text appeared to have made matters worse. The proposed rules on compensation were, for example, too complicated and might frustrate parties' efforts in that regard. Second, in other areas such as Article 21bis, the text introduced new ambiguities and complicated procedures which, in Mexico's view, did not justify the marginal benefits that they generated for the system. He added that these concerns were in addition to the numerous drafting problems that his delegation had with the text. Third, the text incorporated some proposals, including those relating to remand authority and interim reports at the Appellate Body stage, which clearly required further discussion before a consensus could be reached on them. In other areas, the text merely codified current practice meaning that it added very little by the way of substance. He concluded by saying that whereas it was important to meet the deadline of May 2003, it was more important to reach an agreement which would actually make an improvement to the operation of the DSU.

10. The representative of Poland welcomed the Chairman's text and commended the approach taken as pragmatic, considering the large number of proposals tabled by Members, whose views had been shaped by their experiences with the operation of the DSU since 1995. The text was generally balanced, as it recognized the differing positions and interests of various segments of WTO membership. The text was also positive in that it recognized the need to provide special and differential treatment to developing countries. Referring to the Chairman's statement that the text was only a partial result, he said that his delegation was of the view that the draft text provided a good basis for further work until the end of May 2003 and beyond, should the mandate be extended.

11. The representative of the European Communities thanked the Chairman and the Secretariat for preparing and circulating an impressive text which reflected a number of the proposals tabled by Members. He said that the EC was, however, disappointed that some of its proposals meant to address issues of fundamental importance were not reflected in the text. Among such proposals were those related to the composition of panels and multilateral control over sanctions. He said that the EC was of the view that these proposals should remain on the table and should be the focus of negotiations in the near future. While the EC had wanted a text which went further than what was being proposed by the Chairman, it was prepared to accept it as a partial result, with the expectation that negotiations would continue on issues in respect of which consensus could not be found at this time. The adoption of the Chairman's text at the end of May 2003 and a decision to continue with the negotiations would send a positive signal about the commitment of Members to these negotiations. Turning to the specifics of the text, he said that the EC was in agreement with most of its elements, although it was aware that some of them required further work. The EC had some doubts, however, about the appropriateness of permitting a review of an Appellate Body report. Such a procedure could undermine the effectiveness of the Appellate Body and may give rise a number of problems. He concluded by saying that the EC was ready to work very hard and constructively with the Chairman and Members, in order to come to a result which would be broadly acceptable to the membership by the of May 2003.

12. The representative of Chile thanked the Chairman and the Secretariat for preparing and circulating the draft text and said that his delegation was prepared to accept it as a partial result of the negotiations. He said that the text was being analysed in his capital, but he would like to give the following preliminary comments: (i) it was quite substantial as it reflected a number of proposals tabled by participants; (ii) it filled in a number of gaps and clarified a number of provisions in the DSU; (iii) it made improvements in a number of areas long recognized by Members as needing such changes demonstrating the maturity of these issues and a convergence of views among Members; (iv) the non-inclusion of certain proposals in the text demonstrated that they were not yet ripe for a decision; (v) it conformed to the mandate given by Ministers at Doha; (vi) Chile was in support of clarifying the sequencing of Articles 21 and 22 of the DSU and also the creation of a procedure making it possible to determine compliance. He said that while his delegation was supportive of remand authority for the Appellate Body, it had some doubts about the proposed wording in the text.

13. Regarding proposals in the text which required further work, he said that it was the expectation of his delegation that they could be clarified in the next few days considering that the mandate would expire on 30 May 2003. He said that Chile was prepared to work constructively with other Members in that regard. With respect to proposals not reflected in the text, he said that some of them were very positive and could be supported by his delegation. He said that his delegation was, however, aware that it might be difficult in the remaining time to forge a consensus around some of them. While his delegation favoured the continuation of negotiations on these issues, it was aware that the decision on whether or not to continue with the negotiations had to be made by a higher body. Given the limited time available, it would be more productive if Members concentrated on the Chairman's text with a view to reaching consensus on it. The task ahead was a difficult one considering that they were some Members who still had difficulties with some of the proposed decisions in the Chairman's text. It was very important to map out the steps which should be taken by

the Special Session to ensure that an agreement was reached that would be acceptable to all Members in the remaining few days. He said that Chile was committed to the process and would participate in the work constructively.

14. The representative of Norway welcomed the Chairman's text and said that previous attempts to clarify and improve the DSU had yielded no positive results. A lot of effort had been expended on the current exercise and it was his delegation's wish that Members would be able to reach agreement on the text. While the text might have fallen short of the expectations of some Members, there was the need for flexibility and realism. Norway had, for example, wanted the text to include the proposals on a system of permanent panellists, greater openness of the system and proposals aimed at strengthening the implementation phase of the dispute settlement process, but it was mindful of the fact that they did not command enough support among the wider membership. It was imperative for Members to lower their expectations and realize what was feasible at this stage. Efforts should be concentrated on reaching a compromise on the Chairman's text, while leaving open the possibility for conducting further negotiations to clarify and improve the DSU at a later time. Regarding the proposals in the text which required further technical work, he said that his delegation was prepared to work closely with other Members and the Chairman with a view to reaching an agreement on them. He said that his delegation would soon be making some drafting suggestions in that regard. He concluded by saying that the Chairman's text was balanced and that Norway was prepared to accept it as the outcome of the negotiations.

15. The representative of Hong Kong, China welcomed the Chairman's text and said that it was a balanced document which reflected Members' views expressed during the discussions. He said that his delegation was willing to accept the text, but warned that time was of the essence if the mandate of Ministers was to be fulfilled. He said that his delegation was still analyzing the text, but could support most of the proposals, especially those on special and differential treatment for developing countries. He said that his delegation would soon be making some drafting suggestions and seek clarification of certain parts of the text. As regards whether an extension of the mandate would be necessary, he said that his delegation's views were identical to that of Chile. It was better to harvest what was already on the table as it represented a credible package that would clarify and improve the functioning of the DSU. With respect to proposals not reflected in the Chairman's text, he said that his delegation had an open mind and could support further negotiations on these proposals. However, there should not be a linkage between further negotiations on these issues and the adoption of the Chairman's text by the end of May 2003. It was important to bear in mind that the decision on whether or not to continue the negotiations had to be made by either the TNC or the General Council. Given time considerations, it would be preferable if Members concentrated on the Chairman's text with a view to forging a consensus around it.

16. The representative of Malaysia welcomed the Chairman's text and said that the proposed decisions were realistic. While the package was not perfect, his delegation was willing to accept it. He said that his delegation would have, however, wanted to see reflected in the text a number of proposals, including the proposal by Malaysia, India and a group of developing countries on the interpretation of the word "seek" in Article 13.1 of the DSU and some elements of the joint proposal by Chile and the United States. He said that the text did not also reflect faithfully the proposals presented by some developing countries, including the one on litigation costs. The proposal was meant to benefit only developing countries but given the way it had been drafted, all Members would be eligible for litigation costs. This proposal needed to be refined to reflect the intention of the proponents. The language of some of the proposals should also be improved to make them acceptable to Malaysia. It was imperative for Members to show flexibility so that the package could be adopted at the end of May. As regards proposals not reflected in the text, he said that negotiations could be held on them after the conclusion of the Doha Development Agenda negotiations. With respect to proposals included in the text but requiring further technical work, he said that his delegation was willing to work very hard with other Members to ensure that appropriate language was agreed before

28 May. Should that not be possible, Malaysia was prepared to consider a limited extension of the mandate of the Special Session so as to finish this work. The text should have been presented earlier to Members for their consideration. He asked the Chairman to clarify his introductory statement relating to the status of the text. The impression had been created that the text was not definitive. As far as Malaysia was concerned, the text represented the results of the negotiations.

17. The representative of Ecuador thanked the Chairman and the Secretariat for preparing and circulating the text. He said that like other delegations, he wished this document had been distributed earlier to give Members ample time to analyze it. He asked the Chairman to clarify his introductory statement relating to the desire of some Members to continue negotiating on issues not reflected in the text. He said that more clarity was needed in terms of the objective of the exercise. He urged Members to show flexibility in order for progress to be made.

18. The representative of Argentina welcomed the text and said that it was realistic and provided a good basis for reaching an agreement at the end of May. He said that his delegation was broadly supportive of many elements of the text, although it had some differences of opinion with regard to some of the proposals. He said that more work needed to be done on the text before the end of May 2003. He said that his delegation shared the view that if an agreement was reached before the end of May 2003, it would be a significant boost for the operation of the DSU. The DSU had generally worked well DSU and care must be taken to ensure that any changes would actually improve the functioning of the DSU. The proposed text was promising in that regard and every effort must be made to ensure that a consensus was reached before the end of May 2003. He said that his delegation was willing to work constructively with other Members to ensure the attainment of this objective.

19. The representative of Pakistan thanked the Chairman and the Secretariat for preparing and circulating the text which appeared to very balanced and realistic. He said that his authorities were analyzing the document and as such he would only be offering some preliminary comments. He said that his delegation was willing to accept the text, although it was conscious of the need for further work on some aspects. He said in that connection that his delegation shared the views just expressed by Malaysia concerning the proposal tabled by a group of developing countries covering issues, such as the interpretation of the Article 13 of the DSU. As regards the extension of the mandate of the Special Session, he said that as a small delegation which was resource-constrained, they could agree to the extension of the time-frame on condition that the negotiations focussed on the Chairman's text. He also said that his delegation shared the concerns expressed by a number of delegations, including Uruguay and Malaysia relating to the status of the text.

20. The representative of New Zealand thanked the Chairman for producing the text and said that it clearly signalled a new and important stage in the negotiations. He said that his delegation was in agreement with the view that the text on balance reflected the outcome of the discussions so far. While the package of results might seem insufficient to some delegations, New Zealand remained convinced of the need to set aside some proposals in order to make progress, especially considering the tight time-table. He added that his delegation attached particular importance to some of the proposals that were not reflected in the Chairman's text, particularly those that sought to improve the transparency of the system and thereby enhance its credibility. He said that his delegation was willing to agree to an extension of the deadline if that was what was required to make progress on these important issues. He stated in that connection that his delegation was interested to participate in any discussions on how such a process might be established in due course. The immediate focus should, however, be on the text. Members should be realistic about what could be achieved by the end of May 2003. He reiterated his delegation's view that the package which covered, *inter alia*, third-party rights, remand authority for the Appellate Body and the sequencing issue, was not insufficient and should make an important contribution to the functioning of the DSU. He said that his delegation was

prepared to work constructively with other delegations to ensure that an agreement on the text was reached before May 2003.

21. The representative of Switzerland welcomed the text and said that his delegation could support most of the proposed decisions. He said that like other delegations, Switzerland would have liked the text to include certain proposals of interest to it which could have strengthened the operation of the DSU. He said that his delegation was realistic and supportive of the Chairman's efforts to have a clean text by 28 May 2003. The successful conclusion of the DSU negotiations would provide a boost for the DDA negotiations. He said that Switzerland was conscious of the fact the adoption of the Chairman's text would not resolve all the shortcomings and deficits of the current DSU and as such it could support the extension of the mandate for the negotiations. The adoption of the Chairman's text should not depend on whether it included certain proposals of interest to certain delegations.

22. The representative of Israel welcomed the text and said that with it, Members had the real possibility of fulfilling the mandate given by Ministers eighteen months ago at Doha, Qatar. She said that on analyzing the text, her delegation found it to be balanced and could support most of its elements. She said that her delegation would later offer some comments on certain aspects of the text. Referring to the Chairman's introductory note, she said that her delegation was prepared to work constructively with other delegations so as to complete work on the issues requiring further technical elaboration before the end of May 2003. As regards the extension of the mandate of the Special Session, she said that her delegation had an open mind and could support the continuation of negotiations on the DSU. In the event of a positive decision being taken, Israel agreed with the view expressed earlier that the negotiations should be outside the single undertaking and not linked to the Doha Development Agenda negotiations.

23. The representative of Korea thanked the Chairman and the Secretariat for preparing and circulating the text with a view to fulfilling the mandate given by Ministers at Doha. He said that Korea was of the view that the DSU had worked quite well and that only necessary changes should be made to it. The level of ambition in the negotiations should accordingly be modest. He said that it was heartening to see a text on the table after almost 15 months of negotiations. The text accurately reflected the views of Members in the sense that it only included proposals which had attracted broad support from Members during the discussions, including those on enhancement of third party rights both at the panel and Appellate Body stages, improvement of panel and Appellate Body procedures, including the possibility for the parties to suspend or terminate proceedings, improvements at the implementation phase, including resolving the sequencing issue, making compensation an attractive remedy, and enhanced disciplines for mutually agreed solutions. The text was comprehensive and could serve as a basis for an agreement by the end of May 2003. It would, however, appear that more time would be needed to finalize it. Some of the proposals, including those on remand authority, introduction of an interim review stage at Appellate Body proceedings and the handling of business confidential information required careful consideration. It remained to be seen what could be agreed to before the end of May. As regards the extension of the mandate to continue negotiations on issues not reflected in the text, he said that Korea had an open mind and could agree to such an extension. However, there should not be any linkage between the results of the current negotiations and the future negotiations that might be held. He said that Korea was willing to play a constructive role in the process and assist in whichever way that it could.

24. The representative of the United States thanked the Chairman and the Secretariat for all their hard work in these negotiations to date. It recognized the challenges that the Members had presented to them, and appreciated their willingness to take on those challenges. It thanked them for the draft chairman's text that had been provided on Friday. The United States was still reviewing that text and only had preliminary remarks at the present meeting. The United States had three general impressions. First, it approached this exercise from the perspective of how will the overall system function. It

agreed with the chairman that the current DSU essentially worked well. Taken altogether, it feared that the revised DSU proposed in the text would be more cumbersome and burdensome and delay the resolution of disputes. Second, while there were promising elements in the text, there were also elements in the text that were problematic even when taken alone. Plus, a few components of the elements in the text would need to be included if the DSU was to be improved. Third, the United States noted that there was a significant amount of new proposed text presented in the draft. There had been drafting changes introduced in many places even where there did not appear to be any intention to change the concept underlying a proposal. All of this would take time to review. In particular, the many changes to the texts that had been developed and extensively discussed and on the table since before Seattle introduced new issues and concerns. These changes would require some time to work through to understand all their implications and avoid creating new problems through unclear drafting. Each Member would need at the end of the day to look at the total package of amendments and decide for itself if the package represented an improvement to the DSU. In reviewing the draft text, the United States found that it was not obvious that this would represent an improvement, on balance, over the current DSU and had a number of specific concerns. The draft text would appear to make disputes more complicated and unwieldy, with more steps in the proceedings and more complicated rules for those steps. Many disputes would also have more third parties and therefore less time at meetings for the parties to present their case. Injured Members would have to wait longer for any relief – a rough calculation indicated that this could be seven to nine months longer. During those extra months, the Member's trade continued to suffer from the nullification and impairment of benefits to which the Member was entitled.

25. He further stated that the United States did not see much if any improvement in the transparency of dispute settlement proceedings. As the United States had indicated from the beginning of these negotiations, increasing transparency was an important improvement to the DSU and long overdue. An absence of transparency would be counter-productive to the long-term viability of the system. Surely Members could be ready to implement improvements here, even on a provisional basis. The draft text also fell short in improving flexibility and helping Members enhance their ability to resolve disputes. In many of the proposals, the issue of which Member would be entitled to particular treatment would be increasingly important, if not crucial. The text however did not offer additional definition or guidance on this issue. As the United States understood it, the chairman was proposing an approach under which Members would provisionally accept a partial package by the end of May with continuing work on other issues. While the United States was not sure that much more needed to be included, this core package would enter into effect only once all work had concluded. The United States had some questions about this approach. As delegations had remarked, a change to one part of the DSU could affect other parts. It would seem likely then that continuing work on other issues could require re-visiting parts of any provisionally accepted package. The United States also found it hard to understand how Members could evaluate the core package without knowing the other elements that might be agreed. At the same time, the United States recognized that this text was the first attempt to help Members conclude these negotiations and it respected the many difficulties involved in producing it. There were elements in the draft that the United States believed could be developed further and it was willing to work on these. The United States looked forward to working with the chairman and other Members in making further progress in these negotiations. The question that Members needed to rightly ask was, how do we move forward? -- as it seemed increasingly difficult to see how work on even the promising elements of the draft could be concluded this month. And the United States accepted that work on additional elements to improve the DSU would need to extend beyond May. It recalled that the Ministerial Declaration simply called on Members to "aim to" reach agreement by the end of May. The United States was willing to show some flexibility on how to proceed from here. It was interested in hearing others' views on the best way to continue this work and on the draft text.

26. The representative of Singapore thanked the Chairman and the Secretariat for preparing and circulating the text and recalled that her delegation had stated in the past that it would be in favour of



adopting a credible package by the end of May. A quick review of the text had indicated that there were some areas which were problematic, but on balance Singapore was prepared to accept it as the outcome of the negotiations. She said that some elements had to be worked on further as envisaged in the chairman's introductory note. It was doubtful if the remaining work could be completed before the end of May. She said that like Malaysia, her delegation was prepared to agree to a limited extension of the mandate in order to allow completion of the outstanding work. As regards the possibility of conducting further negotiations on proposals not reflected in the text, she said that Singapore was flexible, but that there should not be any linkage between the results of the current negotiations and the future negotiations.

27. The representative of Indonesia welcomed the text and said that it was still being analyzed by his delegation and as such he would only be giving preliminary comments. On the whole, the text was balanced and provided a good basis for reaching an agreement before the end of May. The DSU had generally worked well since its inception and did not need to be remodelled. The changes must be as modest as possible. With that mind, it was the considered view of Indonesia that the Chairman's text would make a positive contribution to the functioning of the DSU. While some Members would have wanted the text to be much more ambitious, it should be remembered modest improvements were better than no improvements at all. There was no guarantee that an extension of the mandate would result in an agreement on a comprehensive package. The positions of Members on certain issues were so entrenched that it was difficult to see how they could be bridged anytime soon. As a non-frequent user of the dispute settlement system, Indonesia would like to see the strengthening of special and differential treatment provisions in the DSU so as to allow developing countries to participate more effectively in the system. He welcomed in that regard the special and differential treatment provisions contained in the Chairman's text. He said that Indonesia was also content with the inclusion of proposals aimed at resolving the sequencing issue and strengthening third-party rights both at panel and Appellate Body stages. As regards the possibility of an extension of the mandate, he said that Indonesia could agree to an extension of the mandate to negotiate issues not reflected in the text, but that there should not be any linkage between the results of the current negotiations and any future negotiations. He said that it might be appropriate to seek guidance from Ministers on whether or not the mandate should be extended. He urged Members to show flexibility and a greater willingness to accommodate the interests of other Members in order for progress to be made.

28. The representative of Brazil welcomed the text and said that it was a good basis for reaching agreement at the end of May. It was only natural for the document not to meet the expectations of all Members given the differing levels of ambition. He said that the package was quite substantial and could make an important contribution to the functioning of the DSU. It was the expectation of Brazil that a consensus could be achieved at the end of May or shortly thereafter. Turning to the specifics, he said that Brazil was glad to see most of the proposals it supported were reflected in the text. These included proposals on the sequencing issue, enhancement of third-party rights, enhanced transparency in some areas, remand authority, compensation and a validity period for consultations. Notwithstanding these positive elements, there were also some problematic aspects of the text. A number of areas needed to be fine-tuned to enable them to make a positive contribution to the functioning of the DSU. He said that Brazil was not convinced about the need to introduce an interim stage in Appellate Body proceedings. This proposal needed careful scrutiny, so also was the proposal on remand authority for the Appellate Body. The underlying reason behind the proposal on compensation was appealing but it was not clear how it would work in practice. The details as elaborated in the text needed further reflection. He said that Brazil also shared the concerns raised by some Members regarding litigation costs. He further said that Brazil would have wanted the text to include certain proposals which would have significantly improved the functioning of the dispute settlement system and which appeared to enjoy broad support during the discussions. He said that the scope of the text was satisfactory, as the purpose of the negotiations was merely to improve and clarify the DSU and not to completely re-invent the DSU. While Brazil was willing to support a limited extension of the mandate to enable further technical work on the text to be completed, it had

serious doubts about the usefulness of granting an extension to enable negotiations on proposals not reflected in the text to continue. Opinions on some of these issues were sharply divided and the proponents had so far failed to convince the greater majority of Members of the value of their proposals making it unlikely for an agreement to be reached on them anytime soon. It might be better for these issues to be addressed at later stage during the Doha Development Agenda negotiations or even after its conclusion to give Members more time to reflect on them. He reaffirmed Brazil's support for the text and said that Brazil was willing to assist in whatever that it could so as to ensure progress in the negotiations.

29. The representative of India welcomed the text and said that his delegation was willing to accept it as the basis of an agreement at the end of May. He said that his delegation was, however, disappointed that the text did not include some of the proposals tabled by a group of developing countries, including that of his own. He expressed support in that regard for the statement made by Malaysia. He also said that it would have been preferable if the text contained some elements of the Mexican proposal, which addressed some of the fundamental problems faced by the DSU. He said that his delegation also shared the view that it was incumbent on Members to carefully assess the legal and practical implications of the package before presenting any definitive views. In the absence of such a careful assessment, it was to be expected that disputes would inevitably arise in the future on the scope of the mandate. It was imperative that there was absolute clarity on what would be agreed at the end of the process. He said that his authorities were analyzing the text and that they would soon be providing their detailed comments on certain aspects of the text. He asked for clarification of the distinction between bracketed proposals and un-bracketed proposals in the text. He said that his delegation had serious conceptual difficulties with some of the un-bracketed proposals and would welcome an opportunity of a formal meeting to express their views on specific aspects of the text. He said that contrary to the impression created, there was still a considerable amount of work to be done before the text could be considered to be in its final form and broadly acceptable to Members. He asked the Chairman to bear in mind the other equally important activities going on in the WTO before scheduling meetings before the end of May. As regards the possibility of holding further negotiations on issues not reflected in the text, he said that his delegation was reflecting on the issue and would provide its comments at a later after taking into account the suggestions made by other delegations.

30. The representative of Paraguay thanked the Chairman and the Secretariat for preparing and circulating the document and said that some of its elements required further consideration. He said that Paraguay had always been in favour of transparency in the negotiations and would like to be invited to all meetings of the negotiating group in the future. He said that Paraguay could support the extension of the mandate to allow completion of the technical work on some of the proposed elements.

31. The representative of Chinese Taipei welcomed the text and said that her delegation was prepared to accept it as the results of the negotiations at the end of May. She said in that regard that her delegation was in agreement with the views expressed by Hong Kong, China, Singapore and other delegations. She said that her delegation was prepared to support an extension of the mandate to allow further technical work to be carried out on certain elements of the proposed text.

32. The representative of Haiti thanked the Chairman and the Secretariat for preparing and circulating the text and said that as the text was being analyzed by the LDC Group, he would only be offering some preliminary comments. He said that the text appeared to be a good basis for reaching an agreement at the end of May, although further work was needed in order to achieve the mandate given by Ministers. He said that LDC Group was determined to play a constructive role in the process so as to ensure substantive progress was made in the negotiations.

33. The representative of Canada expressed his delegation's appreciation for the text and said that as it was recently received by his delegation, he would only be making preliminary comments. The text reflected proposals such as sequencing and enhanced third-party rights in respect of which there

was a broad consensus during the discussions. The Chairman deserved to be commended for helping Members to narrow their differences on these issues. With respect to other proposals, including those with square brackets around them, he said that his delegation was willing to work with other Members to achieve substantive progress between now and the end of May. He said that his delegation was even prepared to continue working beyond 31 May in order to achieve significant improvements on a number of issues, including the protection of business confidential information, enhanced transparency and remand authority for the Appellate Body.

34. The representative of Jordan thanked the Chairman and the Secretariat for producing the text and said that it covered elements which would result in an improvement in the functioning of the DSU. He said, however, that his delegation shared the view that a thorough assessment needed to be undertaken to evaluate the potential legal and practical implications of the text. It would be necessary, for example, to determine whether the text would be able to solve some of the pressing problems facing the dispute settlement system. Given the enormity of the task at hand, an extension of the time-frame might be inevitable. He said that Jordan was prepared to support an extension of the mandate and would urge other Members to do the same. In requesting the extension of the mandate from either the TNC or the General Council, it would be helpful if the request was accompanied by a clean text. The further work should be completed within a short time-frame in order to ensure that the results remained outside the single undertaking. He said that Jordan was willing to play a constructive role in the further process.

35. The representative of Japan thanked the Chairman and the Secretariat for preparing and circulating the text and said that she would at this stage be offering only preliminary comments, as her authorities were in the process of analyzing the document. She said that the text reflected proposals which had commanded broad support during the negotiations. It would, however, be necessary for a thorough assessment to be undertaken to establish the practical and legal implications of the text. There were some concepts that needed further clarification and some which had to be fine-tuned to make them broadly acceptable to delegations. She said that Japan had conceptual difficulties with some of the proposals and would raise them when the meeting switched to an informal mode. As regards the possibility of agreeing to an interim package by 28 May, she said that while her delegation appreciated the Chairman's best efforts in that regard, they would like to discuss and reflect further on some technical details and assess their implications.

36. The representative of Cuba thanked the Chairman and the Secretariat for producing the text and said that it was a good basis for reaching an agreement at the end of May. She said, however, that her delegation would have wanted the text to include more special and differential treatment provisions for developing countries in order to facilitate their access and greater use of the dispute settlement system. She said that her authorities were examining the text and that they would at a later stage provide comments on specific aspects of the text. She said that they would also address the inconsistencies between the English and Spanish versions of the text. As regards the possibility of extending the mandate for a limited duration, she said that her delegation was favourably disposed to it, as more time would be needed to work on the technical aspects of some proposals and also to assess the implications of the text. She urged the Chairman to take into account the particular situation of small delegations before deciding on any schedule of meetings.

37. The representative of Bulgaria thanked the Chairman for his hard work and commitment to the negotiations and said that he would only be making preliminary comments on the text, as it was being analyzed by his authorities. He said that his delegation could probably accept most of the proposals, although there were others which appeared to be problematic. As regards extension of the mandate, he said that his delegation was willing to consider it. On the issue of the scope of the text, he said that he could not prejudge the position that would be taken by his authorities. As a consequence, he was not able to say whether or not his delegation would be able to accept the text as a basis for an agreement at the end of May. He recalled, however, that Bulgaria had always stated that

it would like to see a critical mass of improvements before it could accept any agreement. He further stated that a comprehensive agreement was preferable, as under the constitutional procedures of Bulgaria each agreement would have to receive parliamentary assent. He assured that Bulgaria was willing to play a constructive role in the process to ensure the success of the negotiations.

38. The representative of China expressed his delegation's appreciation to the Chairman and the Secretariat for preparing and circulating the text and said that he would only be making preliminary comments, as his authorities were examining it. He said that the text was broadly acceptable to China and that every effort should be made in the remaining time to narrow the differences in the positions of Members on certain issues. A careful reading of paragraph 30 of the Doha Ministerial Declaration would seem to indicate that Ministers intended the negotiations to produce comprehensive results and not interim results. From that point of view, it would be preferable if every effort was made to fulfil the mandate of Ministers by addressing the concerns and interests of all Members, particularly least-developed and developing countries. He said that China was willing to play a constructive role in the process so as to ensure the success of the negotiations.

39. The representative of Australia thanked the Chairman and the Secretariat for producing the text and said that she would be making some preliminary comments. The text as it stood needed more work to ensure that it was coherent and that all elements of the DSU worked together as they should. She said that the DSU had worked well and that care should be taken in making any changes. With that in mind, Australia was prepared to consider an extension of the May deadline if that was what was required to get an agreement on an appropriate package of improvements and clarifications. It was doubtful if the changes proposed in the text would actually improve the functioning of the DSU. Australia shared the view that some of the changes might make the process more complicated and cumbersome than it already was. The text on sequencing was, for example, cumbersome and too detailed than was necessary to address the problem. She cast doubts on the usefulness of agreeing to a partial result at this stage, as it could make an assessment of the overall balance of the complete package difficult and decrease the flexibility that Members could have otherwise shown. She said that her delegation was in agreement with Members which had stated that careful consideration should be given to how to move the process forward. She concluded by saying that her delegation was looking forward to further discussions on the text in the coming days.

40. The Chairman thanked delegations for their generous comments and said that he would attempt to respond to some of them. While there were variations in the assessments of delegations, it could be said that overall the text was acceptable to many delegations as a basis for an agreement at the end of May. He said that it was perfectly understandable that some delegations had only provided preliminary comments on the text. Some of the issues covered in the text were complex and it was normal that some delegations would require more time to evaluate their implications. He said that if an agreement was to be reached at the end of May, delegations would have to work efficiently and diligently. He suggested that it might be useful if delegations met in an informal mode to discuss further the text. Such a meeting should prove useful as delegations could ask questions and clarify their positions on certain aspects of the text. He said very disparate views had been offered as to the work that needed to be undertaken between now and the end of May and also the status of the outcome of the process. He said that some of the comments were very useful and he would reflect further on them and see what lessons could be drawn from them. Instead of having a full-blown debate on whether the text would be a partial or a provisional result, it would be better if delegations focussed on the text as it was, with all its shortcomings and problems, and explore the possibility of forging a consensus around it.

41. In response to specific comments from delegations, the Chairman recalled that in the introductory note to the text, he had stated that some of the proposals required further technical work and that it might not be possible to complete this work by the end of May. Some delegations had also indicated that unless further negotiations were undertaken on some issues not reflected in the text,

they would not be in favour of adopting the text at the end of May. He said that among the issues which required further clarificatory and technical work were those on business confidential information and litigation costs. If Members so wished, they could reach an agreement on the underlying concepts at this stage and continue working on the details or entrust that responsibility to the DSB. Regarding the link between continuing negotiations on issues not reflected in the text and the adoption of the text at the end of May, he said that he was conscious of the importance attached to some of these proposals by the proponents and that he would suggest that due account be taken of this fact by the Special Session.

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