

# WORLD TRADE ORGANIZATION

RESTRICTED

TN/DSM/16

7 June 2004

(04-2423)

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**Special Session of the Dispute Settlement Body  
1 March 2004**

## MINUTES OF MEETING

Held in the Centre William Rappard  
on 1 March 2004

*Outgoing Chairman: Mr. Péter Balás (Hungary)  
Incoming Chairman: Mr. David Spencer (Australia)*

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Prior to the adoption of the agenda, the outgoing Chairman welcomed participants to the seventeenth formal meeting of the Special Session and said that the agenda for the meeting contained two items, namely: (i) Election of Chairperson; and (ii) Organization of Work.

### **1. Election of the Chairperson**

1. The outgoing Chairman recalled that at its 11 February 2004 meeting, the General Council had taken note of the consensus on a slate of names for Chairpersons to a number of WTO bodies, including the Special Session of the Dispute Settlement Body. On the basis of that understanding, he proposed that the Special Session elect Ambassador David Spencer of Australia as its next Chairman. It was so agreed.

2. The outgoing Chairman, Amb. Péter Balás of Hungary, congratulated the incoming Chair and recalled that Members had been working on the reform of the DSU for almost two years. He said that the task ahead was difficult given the lack of a common purpose and the short time-frame within which the negotiations had to be completed. The time spent as Chairman of the Special Session of the DSB had been challenging as well as rewarding. Members had been very professional and shown commitment to move the process. He was especially grateful for the active participation of developing countries, including LDC Members and African countries. He said that a lot of good work had been done and that Members should endeavour to build on it and achieve substantive results within the extended time-frame.

3. The incoming Chairman, Amb. David Spencer of Australia, thanked Members for electing him as the new Chairperson of the DSB and said that he would be impartial and fair. He said that it would be a challenge to meet the end of May deadline. A recent poll undertaken by Andy Stoler had indicated that most Geneva-based delegates did not expect the negotiations to be concluded outside the scope of the overall timing of the Round. He pledged, however, that he would do his utmost to ensure that substantive progress was made. He paid tribute to the outgoing Chairman for his hardwork and dedication which had resulted in good progress being made in the negotiations. His task was not made easier by the vagueness of the Doha mandate and the tendency of Members to

negotiate with him rather than with each other. While the outgoing Chair did not have the opportunity to leave Members a legacy of the conclusion of these negotiations, he had left an indelible mark on the process.

## **2. Organization of the work**

4. The newly-elected Chairman said it was a challenge for Members to complete the negotiations within three months. At this stage, he did not wish to propose any specific recommendation or proposals for a course of action other than to encourage all Members to engage with each other. Most delegations in Geneva were aware of the experience over the past two years – in this Group and in others – where there had been a tendency to negotiate with the Chairpersons, rather than with each other. Most wished to avoid the pressure that had been placed on Chairpersons and all accepted that if genuine progress was to be made, Members would have to speak much more to one another. He asked delegations which wanted to consult him to do so and said that it was his expectation that by the next meeting of the Special Session, which was scheduled for 25 March 2004, the Special Session would have a clearer sense of how to structure its work.

5. The representative of the European Communities invited Members to build on the outgoing Chairman's text of 28 May 2003, as it contained the necessary elements which should make it possible for an ambitious result to be reached by the end of May 2004. Missing another deadline would harm the credibility of the process.

6. The representative of Canada assured the new Chairman of his delegation's preparedness to support him in his task. He underlined the importance of Members focusing on matters of importance and not to be sidetracked by issues which did not affect the operation of the DSU. The bulk of the effort should be spent on matters that were central to the smooth functioning of the DSU.

7. The representative of the United States said that his delegation looked forward to working with the Chairman as the Members of the Special Session continued their work on these negotiations to clarify and improve the dispute settlement system. The United States also looked forward to working with the Chair in the process of consultations that he had outlined. It thanked Amb. Balás for his stewardship and tireless efforts during the negotiations thus far and noted its appreciation for the commitment and energy that he showed.

8. The representative of Chinese Taipei said the task ahead was not easy, but the Chairman had already demonstrated leadership in other areas of the WTO over the years. Chinese Taipei was not a frequent user of the DSU system, but it had participated actively in these negotiations. He assured the Chairman that his delegation was ready and willing to cooperate with a view to reaching a satisfactory result by the set deadline.

9. The representative of Japan said his delegation would continue to be active and constructive in the negotiations. He said that it was important for Members to redefine their priorities in the negotiations and make as rapid progress as possible. He urged Members to take into account the interests of developing countries in the negotiations.

10. The representative of Mexico said that much work remained to be done. For progress to be made, it was important for Members to focus on the essential problems that affected the operation of the dispute settlement system. He referred to the statistical analysis prepared by Mexico as well as those prepared by the Secretariat and the European Communities and said that these documents could provide useful inputs into the process.

11. The representative of Malaysia, speaking on behalf of Cuba, Egypt, India, Indonesia, Jamaica and Sri Lanka, referred to the proposal submitted by a group of developing countries covering special

and differential treatment for developing countries and other issues of systemic importance, and said that it was their expectation that these issues would continue to receive attention in the negotiations. It was imperative that developing countries be assisted to make greater use of the dispute settlement system.

12. The representative of Bulgaria agreed with the Chairman that delegations should negotiate among themselves, rather than with the Chairpersons. There were marked differences in market access negotiations and in the rules area. Under the former, negotiations were often carried out bilaterally and results reflected in national schedules. In the rules area, it was important for there to be a convergence of views on all proposals before they would be acceptable. It was his expectation that the time scheduled for the Special Session would be fully utilized and that the Chairman would offer the possibility to all interested delegations to participate in informal meetings to advance the process.

13. The representative of Bangladesh, speaking on behalf of the Least-Development Countries Group, said the Group had specific objectives in the negotiations and hoped that these objectives would be achieved within the time envisaged under the Chairman's leadership.

14. The representative of Brazil said that for any final text to be acceptable, it should be qualitatively and concretely better than the present text. It should also be simpler and unambiguous. Members could not afford any convoluted texts or proposals. The previous exercise lost some momentum because of the sheer number of proposals and the complexity of some of them. It would be good to start in this next phase by limiting the scope of the work taking into account the constraints of time. The diagnostic paper by Mexico had provided useful guidance to the initial work by identifying the problems, but it should be supplemented with a discussion of what was and was not doable before the end of May 2004.

15. The representative Israel said that although Israel was not an active user of the DSU system, it was convinced about the contribution that could be made by the dispute settlement system towards the successful development of the multilateral trading system. It was necessary to build on the good work done thus far, including the Chairman's text, with a view to achieving substantive results by the end of May. She said that it was the expectation of Israel that the inclusiveness and transparency of the negotiations would be continued.

16. The representative of China said his delegation would continue to work actively with Members to narrow differences towards convergence up to the May deadline.

17. The representative of Thailand said his delegation would prefer to spend the time between now and the end of May 2004 discussing proposals on the table without prioritizing them. It was necessary for the Chairman's text to be finalized as soon as practicable. It was also necessary for discussions to be held on other proposals in an informal mode, so that Members could freely exchange views and make progress on the remaining proposals.

18. The representative of Argentina said future work should be carried out within the context of what was possible, both in terms of the possibility of achieving consensus among Members and also in light of deadline at the end of May 2004. After reaching a consensus on the most important issues, Members should concentrate on those issues which had the real possibility of improving the functioning of the DSU.

19. The representative of Korea assured the Chairman of his delegation's co-operation in his efforts to move the process forward.

20. The representative of Norway assured the Chairman of his delegation's full support and said that they were prepared to work closely with other Members in order to ensure that results were achieved by the May deadline.

21. The representative of Nigeria, speaking on behalf of the African Group, said that substantive progress could be made, if the Special Session adhered to the mandate given by the General Council, which was to work on the basis of the Chairman's text and other proposals submitted by Members.

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