

**SPECIFIC AMENDMENTS TO THE DISPUTE SETTLEMENT UNDERSTANDING  
– DRAFTING INPUTS FROM CHINA**

Communication from China

Revision

The following communication, dated 11 March 2003, has been received from the Permanent Mission of the People's Republic of China.

Further to its communication, dated 6 January 2003, China would like to propose the following amendments to the DSU:

**1. Consultation**

1. In paragraph 7 of Article 4, the numeral "60" should be replaced by the numeral "30" wherever it appears.
2. The following footnote should be inserted at the end of this paragraph:

*Where one or more of the parties is a developing-country Member, the time period established in paragraph 7 of Article 4 shall, if the developing-country Member request, be extended by up to 30 days.*

**2. Panel**

1. Paragraph 1 of Article 6 should be amended as follows:

*If the complaining party so requests, the DSB shall establish a panel at the meeting at which the request first appears as an item on the DSB's agenda, unless the DSB decides by consensus not to establish a panel.*

The existing footnote to Article 6.1 should be retained at the end of paragraph 1.

2. The following new footnote should be added to Article 6.1 after the word "requests":

*In a case involving a complaint against a developing-country Member, if the developing-country Member requests, the establishment of a panel shall be postponed at the DSB meeting following that at which the request first appears as an item on the DSB's agenda.*

### **3. Third party**

1. In paragraph 2 of Article 10, the sentence "within 10 days after the date of establishment of the panel" should be inserted after "to the DSB".

2. Paragraph 6 of Appendix 3 "Working Procedures" should be amended as follows:

*All third parties which have notified their interest in the dispute to the DSB shall be invited in writing to be present at all substantive meetings of the panel. The third parties shall be invited by the panel to present their views and may respond to the questions raised by the panel and parties to the dispute during the first substantive meeting.*

3. Paragraph 7 of Appendix 3 "Working Procedures" should be amended as follows:

*Formal rebuttals shall be made at a second substantive meeting of the panel. The party complained against shall have the right to take the floor first to be followed by the complaining party. The parties shall submit, prior to that meeting, written rebuttals to the panel. The third party shall have the right to observe the meeting without entitlement of taking the floor at the second substantive meeting of the panel.*

### **4. S&D Treatment**

1. The following provision on horizontal S&D treatment to developing-country Members, including LDCs, should be added at an appropriate place in the DSU.

#### **Article xx**

##### *Special and Differential Treatments to Developing Countries*

1. *Developed-country Members shall exercise due restraint in cases against developing-country Members. Developed-country Members shall not bring more than two cases to the WTO Dispute Settlement Body against a particular developing-country Member in one calendar year.*

2. *Where a developed-country Member brings a case against a developing-country Member, if the final rulings of a panel or the Appellate Body show that the developing-country Member does not violate its obligations under the WTO Agreements, the legal costs of the developing-country Member shall be borne by the developed-country Member initiating the dispute settlement proceedings.*

2. The following provisions on the time-frame for safeguard and anti-dumping cases in the DSU should be added at an appropriate place in the DSU.

#### **Article xx**

##### *Shortened Time-Frame for Disputes Involving Safeguard and Anti-Dumping Measures*

1. *Time-periods applicable under the DSU for the conduct of disputes involving safeguard and anti-dumping measures shall be half of the normal time-frame.*

2. *If the defending party is a developing-country Member, the shortened time-frame shall not apply to the defending party.*

Relevant provisions in the Agreement on Safeguards and Agreement on Anti-Dumping should be revised accordingly.

**5. Reasonable period of Time**

1. The following paragraphs should be inserted at the end of paragraph 6 of Article 21:

*Upon compliance with the recommendations or rulings of the DSB, the Member concerned shall submit to the DSB a written notification on compliance.*

*If the Member concerned has not submitted the above-mentioned notification by the date that is 20 days before the date of expiry of the reasonable period of time, then not later than that date the Member concerned shall submit to the DSB a written notification on compliance including the measures that it has taken, or the measures that it expects to have taken by the expiry of the reasonable period of time*

**6. Amendment to Working Procedures**

1. Subparagraph 12(a) should be revised as follows:

(a) *Receipt of first written submissions of the parties:*

- |     |                                  |       |                  |
|-----|----------------------------------|-------|------------------|
| (1) | <i>Complaining Party:</i>        | _____ | <i>3-4 weeks</i> |
| (2) | <i>Party complained against:</i> | _____ | <i>4-5 weeks</i> |

Such revision is to balance the current time-period for parties to a dispute to prepare written submissions.

2. In order to address special situations of developing-country Members, the following sentence should be added to subparagraph 12(a):

*For developing-country Members to a dispute, the following time-frame shall apply:*

- |     |                                  |       |                  |
|-----|----------------------------------|-------|------------------|
| (1) | <i>Complaining Party:</i>        | _____ | <i>4-6 weeks</i> |
| (2) | <i>Party complained against:</i> | _____ | <i>6-7 weeks</i> |
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