

**JORDAN'S FURTHER CONTRIBUTION TOWARDS THE IMPROVEMENT AND
CLARIFICATION OF THE DISPUTE SETTLEMENT UNDERSTANDING**

Communication from Jordan

The following communication, dated 16 May 2003, has been received from the Permanent Mission of the Hashemite Kingdom of Jordan.

Jordan refers to its proposals on improving and clarifying the WTO Dispute Settlement Understanding, (TN/DS/W/43 and TN/DS/W/53), and would like to include, as specified herein, a revised legal text on the issue of "remand authority and its procedures" taking into consideration our discussions with the proponents in addition to the comments and suggestions which we have received from Members during our negotiations and discussions at the Dispute Settlement Body in its Special Session.

- We refer to item X of the Jordanian proposal and hereby replace the legal text that has been previously suggested in respect of amending paragraph (12) of Article (17) of the DSU, to include the remand authority, with the following:

"In so far as the report of the panel or compliance panel does not contain sufficient factual findings or undisputed facts on the record so as to enable the Appellate Body to resolve the dispute, or any part thereof, the Appellate Body shall explain in detail in its report the specific insufficiencies of the panel or compliance panel report in order to allow any party to the dispute to request a remand of the matter, or part thereof, to the original panel. The Appellate Body shall also state the necessary findings of law and other directions so as to enable the panel to fully perform its task. Any party to the dispute can request the remand to the original Panel within 10 days from the adoption of the Appellate Body report by the DSB."

- We refer to item X of the Jordanian proposal and hereby replace the legal text that has been previously suggested in respect of adding Article 17bis to the DSU, to include the remand procedure, with the following:

"Article 17bis – Remand Procedure

The following special procedures shall apply for the remand procedure:

1. When, following the adoption by the DSB of the Appellate Body report under paragraph 12 of Article 17, a remand is requested, the DSB shall establish the panel, consisting of the members of the original panel, within five days after the request has been forwarded to the Chair of the DSB.
2. The terms of reference of the remand panel established under this paragraph shall be:

"To examine, in the light of the relevant provisions in (name of the covered agreement(s) cited by the parties to the dispute), the matter referred to the DSB under paragraph 12 of Article 17 in document ... and to make such findings, in accordance with the findings of law and guidelines set by the Appellate Body under that provision, as will assist the DSB in making the recommendations or in giving the rulings provided in that/those agreement(s)".
3. The remand panel shall circulate its report to the Members within 90 days from the request. When the panel considers that it cannot issue its report within such time-frame, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will issue its report. In no case should the period from the establishment of the remand panel to the circulation of the report to the Members exceed six months.
4. On or after the date of circulation of the report of the remand panel, any party to the remand panel proceeding may request a meeting of the DSB to adopt the report, and the DSB shall meet 10 days after such a request unless the party requesting the meeting requests that the meeting be held at a later date. At that meeting, the remand panel report shall be adopted by the DSB and unconditionally accepted by the parties to the remand panel proceeding unless a party to the remand panel proceeding formally notifies the DSB of its decision to appeal or the DSB decides by consensus not to adopt the report. This adoption procedure is without prejudice to the right of Members to express their views on a remand panel report.
5. In case the report of the remand panel is appealed, the Appellate Body proceedings, as well as the adoption of the Appellate Body report, shall be conducted in accordance with Article 17."

¹ If any member of the original panel is not available, a replacement shall be appointed by the Director General within five days after the date of establishment of the panel from the **indicative list** of panelists provided for in Article 8.