

## CONTRIBUTION FROM THAILAND (RELATED TO ARTICLE 17 OF THE DSU)

### Communication from Thailand

The following communication, dated 28 November 2003, is being circulated at the request of the Delegation of Thailand.

#### 1. Problems

The table below, based on statistics maintained by the Secretariat, shows how many cases each of Appellate Body (AB) members had been assigned per year. It reflects the fact that the number of disputes has declined after the year 2000, but given the circumstances where the issue of the peace clause is uncertain and where application of anti-dumping measures, including safeguards measures, is likely to increase, workload of each of AB members is apparently in the upward trend.

Moreover, the Mexican paper has on page 7 shown to us that there are 89 panel reports adopted so far, as opposed to 64 Appellate Body reports adopted by the DSB. It would not be misled to conclude that more than half of the disputes had been appealed during the past years. This figure confirms our valid argument that each AB member had about four disputes to hear per year, other than arbitration proceedings assigned to them individually. We are of the view that each of AB members will continue to have about the same number or more of disputes to hear per year in the future.

	1996	1997	1998	1999	2000	2001	2002
Mr. Feliciano	2	1	4	5	6	3	
Mr. Beeby	1	3	4	2			
Mr. Matsushita	2	3	3	4	1		
Mr. Lacarte-Muro	2	2	4	3	7	4	
Mr. Bacchus	1	3	2	5	7	4	3
Mr. El-Naggar	2	1	4	4	1		
Mr. Ehlermann	2	2	3	4	6	3	4
Mr. Ganesan					2	6	2
Mr. Abi-Saab					3	4	3
Mr. Taniguchi					3	4	2
Mr. Baptista							3
Mr. Sacerdoti						1	3
Mr. Lockhart							3

## 2. Questions

1. Do we want each of AB members to hear and consider cases under assignment with sufficient time to deliberate among themselves and perhaps to have consultations among them *en banc*, when it is reported on page 15 of the Mexican paper that the AB has issued only 7.8 per cent of its total number of reports within the timeframe of 60 days, and that presumably Ecuador could have lost US\$14.7 million for the average time over schedule in an AB proceeding?
  2. Don't we want to allow the AB to set up in itself three separate chambers to hear disputes so that it would facilitate their work assignment at the same time so that any AB member will not be assigned to unnecessarily hear more disputes than others, and that they could focus themselves on legal issues raised by disputants based on their expertise in such areas?
  3. Don't we want to increase AB members at the time when we have the mandate to do so, or do we want to delay it until such time necessary where there may or may not be a mandate as such?
  4. Do we want to have as many experts in different areas as possible to serve as AB Members, for example, in the areas of intellectual property, services, agriculture?
  5. Would there be a lot of financial implications to the Membership as a whole if the number of AB members is increased from seven to nine?
  6. Do we think that the AB is unable to handle the issue of collegiality if, and if only, the number of AB members is increased in a very conservative manner, for instance, two (from seven to nine, which is far from seven to twenty or thirty)?
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