

**Dispute Settlement Body
Special Session**

SPECIAL SESSION OF THE DISPUTE SETTLEMENT BODY

Report by the Chairman, Ambassador Péter Balás,
to the Trade Negotiations Committee

1. Since its establishment by the TNC on 1 February 2002, the Special Session of the Dispute Settlement Body met formally 13 times in order to carry out negotiations on improvements and clarifications to the Dispute Settlement Understanding, in accordance with paragraph 30 of the Doha Ministerial Declaration.
2. At these meetings, the work progressed from a general exchange of views to a discussion of conceptual proposals put forward by Members and by the second half of 2002 to an issue-by-issue thematic discussion. Since January 2003, the work has focused on discussion of specific draft legal texts proposed by Members.
3. While the prevailing view of Members is that the DSU has generally functioned well to date, a large number of specific proposals for clarifications and improvements (42 in total) were submitted by participants representing a large part of the membership of the WTO. These proposals touched on almost all the provisions of the DSU.
4. Considering the large number and complexity of Members' draft legal proposals (contained in the compilation issued as Job (03)/10/Rev.3) it took until the end of March 2003 merely to complete their initial review. Based on these discussions, the Chairman of the Special Session began in April 2003 to put forward draft legal texts in a Framework Document (Job(03)/69/Rev.2) issued under his own responsibility. A consolidated proposed Chairman's Text was issued on 16 May 2003, as contained in document Job (03)/91.
5. The Chairman's Text contained proposals on a substantial number of issues, including, *inter alia* : the enhancement of third-party rights, both at the panel and Appellate stage, as well as improved conditions for Members seeking to be joined in consultations; the introduction of an interim review stage and remand at the Appellate stage; clarification and improvement of the sequence and details of procedures at the implementation stage; enhancement of compensation; strengthening of notification requirements for mutually agreed solutions; and strengthening of special and differential treatment for developing countries at various stages of the proceedings.
6. A number of other proposals by Members could not be included in the Chair's proposal in the absence of a sufficiently high level of support, including, *inter alia*, accelerated procedures for certain disputes; improved panel selection procedures; increased Member-control on panel and Appellate Body reports; clarification of the treatment of *amicus curiae* briefs; certain proposed changes in the procedures for suspension of concessions or other obligations, including collective retaliation or enhanced surveillance of the suspension of concessions or other obligations; and other proposals.
7. Discussion of the Chairman's Text began on 20 May. Members generally welcomed the document and considered it to be a useful basis for further negotiations, but a number of delegations also pointed out what they perceived to be shortcomings of the document. Notwithstanding these reservations,

participants expressed a readiness to engage in a detailed, constructive discussion about the specific proposals contained in the Chairman's Text.

8. During the detailed discussion of the Chairman's text, a wide range of views were expressed on the elements contained in the text. It was generally recognized that, in any event, all of these provisions required further legal refinement and some needed further substantive development. It was also suggested that all elements of the DSU were closely interconnected and that Members would need eventually to make an overall assessment of the implications of the possible changes to the DSU, when all aspects of the negotiations reach their final stage.

9. Special and differential treatment for developing country Members was extensively discussed by the Special Session. A number of proposals for special and differential treatment were contained in the Chairman's Text. On 20 May, the Chairman of the General Council addressed a letter to the Chairman of the Special Session of the DSB, referring to the Special Session a number of proposals on the DSU made in context of the negotiations in the Special Session of the Committee on Trade and Development and requesting that these be considered as early as possible. These proposals were discussed at a meeting of the Special Session on 23 May. In the course of the detailed discussion, it was recognized that the Chairman's Text contained provisions with an intent similar to that of most of the proposals contained in the letter of the Chairman of the General Council. It was suggested that these provisions be discussed further in detail as part of the ongoing work related to the Chairman's Text.

10. As a result of intensive discussions on the Chairman's Text, a number of changes were introduced in a revised version issued on 28 May (Job(03)/91/Rev.1, reproduced as an annex below)¹. In spite of a certain convergence of views on a number of proposed provisions, it became apparent that the Chairman's Text, even as revised, could not be agreed upon. Certain Members indicated that they still had conceptual difficulties with certain proposals contained in the document.

11. In addition, a number of delegations also continued to emphasize the importance they attached to certain other proposals, which were not reflected in the Chairman's Text. Some Members expressed the view that negotiations on such proposals might be facilitated if their proponents could further adapt them in light of the comments and concerns expressed by other Members in respect of such proposals.

12. In spite of the absence of an agreed outcome, most delegations expressed the view that further work would be desirable, in order to reach such an outcome. A number of Members proposed that this further work should build both on the Chairman's Text and on other Members' proposals contained in the documents referred to in paragraph 4 above. Other Members were of the opinion that any further work should focus only on the issues contained in the Chairman's Text.

13. Reacting to views expressed by a number of delegations, the Chairman suggested that any further work should continue at a less intensive pace than up to the end of May. Taking into consideration the burdens on smaller delegations due to other important issues of the DDA mandate, he proposed that a further informal meeting could be scheduled before mid-July. Most delegations shared the view that it would be important to maintain the dynamic of the negotiations.

14. In spite of a general recognition of the need for further work and Members' expressed readiness to remain engaged, it also became apparent, at the 28 May meeting of the Special Session, that there were differences among delegations concerning the possible modalities of any such work. It was suggested that at the meeting of the TNC on 10 June, when the Chairman's report would be discussed, the issue of further action could also be discussed.

¹ On 6 June, a corrigendum was issued, as Job(03)/91/Rev.1/Corr.1, in order to rectify some technical errors. The text reproduced in the attachment below incorporates the technical rectifications included in that corrigendum.

Annex :

Chairman's text, as of 28 May²

I. PROPOSED AMENDMENTS TO THE DSU

ARTICLE 3

Paragraph 6

~~Mutually agreed solutions to matters~~ **Each party to a mutually agreed solution to a matter** formally raised under the consultation and dispute settlement provisions of the covered agreements shall ~~be notified,~~ **within 60 days after the date at which the solution was reached, notify the terms of that solution** to the DSB and the relevant Councils and Committees, where any Member may raise any point relating thereto. **Such notification shall contain sufficient information relevant to the covered agreements to enable other Members to understand the mutually agreed solution.**

Paragraph 13 (to be created)

[Any time period in this Understanding may be extended by mutual agreement of the parties to the dispute concerned, except the following: [--]. In that context, parties shall give special attention to the particular problems and interests of developing country Members.]

ARTICLE 4

Paragraph 10

During consultations, Members ~~should~~ **shall** give special attention to the particular problems and interests of developing country Members. **When the party complained against is a least-developed country Member, the possibility of holding consultations in the capital of that Member shall always be considered.**

Paragraph 10bis (to be created)

Note: the non-bolded part of this paragraph is currently contained in paragraph 10 of Article 12.

In the context of consultations involving a measure taken by a developing country Member, the parties may agree to extend the periods established in paragraphs 7 and 8 of Article 4. ~~If , after the relevant period has elapsed, the consulting parties cannot agree that the consultations have concluded, the Chairman of the DSB shall decide, after consultations with the parties, the parties have not agreed on such extension, the developing country Member concerned may, prior to the expiry of the relevant period, request the Chairman of the DSB to extend the relevant period. After consultations with the parties, the Chairman of the DSB shall decide whether to extend the relevant period and if so, for how long. [A guideline for the Chairman of the DSB shall be that such extension should normally not exceed 15 days from the date of expiry of the relevant period.]~~

Paragraph 11

² This annex reproduces the text contained in Job(03)/91/Rev.1, issued on 28 May, and incorporates the technical rectifications included in the corrigendum Job(03)/91/Rev.1/Corr.1, issued on 6 June.

Whenever a Member other than the consulting Members considers that it has a substantial trade interest in consultations being held pursuant to paragraph 1 of Article XXII of GATT 1994, paragraph 1 of Article XXII of GATS, or the corresponding provisions in other covered agreements³, such Member may notify the consulting Members and the DSB, within 10 days after the date of the circulation of the request for consultations under said Article, of its desire to be joined in the consultations, **indicating the reasons for its claim of substantial trade interest.**

Such Member shall be joined in the consultations, ~~provided that the Member to which the request for consultations was addressed agrees that the claim of substantial interest is well-founded. In that event they shall so inform the DSB. unless the Member to which the request for consultations was addressed disagrees with the claim of substantial trade interest and notifies the DSB of the reasons for the disagreement within 10 days after the date of receipt of the request to be joined in the consultations.~~ **If the Member to which the request for consultations is addressed agrees that the request to be joined in these consultations is well-founded, it shall so inform the DSB.**

If the request to be joined in the consultations is not accepted, the applicant Member shall be free to request consultations under paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATT 1994, paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATS, or the corresponding provisions in other covered agreements.

Paragraph 12 (proposed)

A request for consultations may no longer serve as a basis for a request for the establishment of a panel if the complaining party has not submitted such a request within 18 months after the date of circulation of the request for consultations. This shall not apply if the complaining party notifies the party complained against and the DSB, before the expiry of the 18-month period, of its objection to the lapse. In such case, the request for consultations may serve as a basis for a request for the establishment of a panel for a further period of 18 months. Further extensions may take place for the same duration in the same manner.

ARTICLE 6

Paragraph 1

~~If the complaining party so requests, a panel shall be established at the latest at the DSB meeting following that at which, at the request of the complaining party, the request first appears as an item on the DSB's agenda, unless at that meeting the DSB decides by consensus not to establish a panel.~~⁴ **The DSB shall establish a panel at the meeting at which, at the request of the complaining party, the request first appears as an item on the DSB's agenda, unless at that meeting the DSB decides by consensus not to establish a panel.**⁴

Where the Member complained against is a developing country Member, the establishment of a panel shall be postponed, if that Member so requests, to the next DSB meeting at which, at the request of the complaining party, the request appears as an item on the DSB's agenda. In such cases, the panel shall be established at that meeting unless the DSB decides by consensus not to establish it⁵.

³ The corresponding consultation provisions in the covered agreements are listed hereunder: Agreement on Agriculture, Article 19; Agreement on the Application of Sanitary and Phytosanitary Measures, paragraph 1 of Article 11; Agreement on Textiles and Clothing, paragraph 4 of Article 8; Agreement on Technical Barriers to Trade, paragraph 1 of Article 14; Agreement on Trade-Related Investment Measures, Article 8; Agreement on Implementation of Article VI of GATT 1994, paragraph 2 of Article 17; Agreement on Implementation of Article VII of GATT 1994, paragraph 2 of Article 19; Agreement on Preshipment Inspection, Article 7; Agreement on Rules of Origin, Article 7; Agreement on Import Licensing Procedures, Article 6; Agreement on Subsidies and Countervailing Measures, Article 30; Agreement on Safeguards, Article 14; Agreement on Trade-Related Aspects of Intellectual Property Rights, Article 64.1; and any corresponding consultation provisions in Plurilateral Trade Agreements as determined by the competent bodies of each Agreement and as notified to the DSB.

⁴ If the complaining party so requests, a meeting of the DSB shall be convened for this purpose within 15 days of the request, provided that at least 10 days' advance notice of the meeting is given.

⁵ If the complaining party so requests, a meeting of the DSB shall be convened for this purpose within 15 days of the request, provided that at least 10 days' advance notice of the meeting is given.

ARTICLE 8

Paragraph 10

When a dispute is between a developing country Member and a developed country Member the panel shall, ~~if the developing country Member so requests, include at least one~~ a panelist from a developing country Member, **unless the developing country Member agrees otherwise.**

When the party complained against is a least-developed country Member, the panel shall include a panelist from a least-developed country Member, unless the least-developed country Member agrees otherwise. Alternatively, if that Member so request, the panel shall include a panelist from a developing country Member pursuant to the first sentence of this paragraph.

ARTICLE 10

Paragraph 2

Any Member having a substantial interest in a matter before a panel ~~and having notified~~ **shall notify** its interest to the DSB **no later than 10 days after the establishment of the panel** (such Member is referred to in this Understanding as a "third party") ~~shall have an opportunity to be heard by the panel and to make written submissions to the panel. The panel shall give third parties the opportunity to be present at the substantive meetings of the panel with the parties to the dispute preceding the issuance of the interim report to the parties, except for portions of such meetings when [privileged] information designated as such by the party that submitted it is discussed. Third parties shall also have an opportunity to be heard by the panel.~~ These submissions shall also be given to the parties to the dispute and shall be reflected in ~~the panel report.~~

Paragraph 3

~~Third parties shall receive the submissions of the parties to the dispute to the first meeting of the panel.~~

Each third party shall receive, at the time such submission is made, a copy of the submissions to the panel of the parties to the dispute and of other third parties, except for [privileged] information designated as such by the party that submitted it. Third parties shall not receive any submission made subsequent to the issuance of the interim report to the parties.

The submissions **of third parties** shall also be given to the parties to the dispute and shall be reflected in the panel report.

ARTICLE 12

Paragraph 1

Panels shall follow the Working Procedures in Appendix 3 unless the panel decides otherwise, after consulting the parties to the dispute **and bearing in mind the interests of third parties.**

Paragraph 5

Panels should set precise deadlines for written submissions by the parties **and the third parties**, and the parties **and third parties** should respect those deadlines.

Paragraph 10

~~[In the context of consultations involving a measure taken by a developing country Member, the parties may agree to extend the periods established in paragraphs 7 and 8 of Article 4. If, after the relevant period has elapsed, the consulting parties cannot agree that the consultations have concluded, the Chairman of the DSB shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing country Member, the panel shall accord sufficient time for the developing country Member to prepare and present its argumentation. The provisions of paragraph 1 of Article 20~~

~~and paragraph 4 of Article 21 are not affected by any action pursuant to this paragraph. Where the party complained against is a developing country Member, the panel shall, in determining its timetable, take due account of any particular problems faced by that Member, and afford it sufficient time to present its written submissions, normally no less than 15 additional days for the first submission and 10 additional days for the rebuttal submissions.⁶ The time-frames provided for in paragraph 1 of Article 20 and paragraph 4 of Article 21 may be extended as necessary to apply this provision.]~~

Paragraph 11

~~Where one or more of the parties is a developing country Member, the panel's report shall explicitly indicate the form in which account has been taken of relevant provisions on differential and more favourable treatment for developing country Members that form part of the covered agreements which have been raised by the developing country Member in the course of the dispute settlement procedures.:~~

- (a) a developing country Member wishing to avail itself of any provisions on differential and more favourable treatment for developing country Members that form part of the covered agreements should raise arguments on these provisions as early as possible in the course of the procedure;**
- (b) the submissions of any other party to the dispute, that is not a developing country Member, should address any such arguments which have been raised by a developing country Member party to the dispute;**
- (c) the panel's report shall explicitly take into account and reflect the consideration given to any provisions on differential and more favourable treatment for developing country Members that form part of the covered agreements which have been raised by a developing country Member party to the dispute.**

Paragraph 12

At the request of the complaining party **at any time before the issuance of the interim report to the parties**, the panel ~~[shall][may]~~ suspend its work for a period not to exceed 12 months. **At the request of the parties to the dispute at any time prior to the circulation of the final report to the Members, the panel shall suspend its work for a period to be determined by the parties.** In the event of such a suspension, the time-frames set out in paragraphs 8 and 9 of this Article, Article 20, and paragraph 4 of Article 21 shall be extended by the amount of time that the work was suspended. If the work of the panel has been suspended for more than 12 **consecutive** months, the authority ~~[for establishment]~~ of the panel shall lapse.

Paragraph 13 (proposed)

[After the establishment of the panel, and until the issuance of the interim report to the parties, the complaining party may notify the termination of the panel process to the DSB and, where the panel has been composed, to the panel. If the panel process is terminated in application of this paragraph after the panel has been composed, the complaining party may not make a new request for the establishment of a panel in respect of the same matter without first requesting consultations under Article 4, unless the parties agree otherwise.]

[The parties may notify the termination of the panel process at any time before the circulation of the final panel report to Members. If the panel has already been composed at the time of such termination, the panel's report shall be confined to a brief description of the case and to reporting that the panel process has been terminated.]

ARTICLE 15

Paragraph 1

Following the consideration of rebuttal submissions and oral arguments, the panel shall issue the descriptive (factual and argument) sections of its draft report to the parties to the dispute. **The panel shall also issue to each third**

⁶ The application of this provision shall be without prejudice to the simultaneity of submissions as provided for in paragraph 6 of this Article.

party the portion of the descriptive sections of its draft report which reflect that third party's arguments. Within a period of time set by the panel, the parties **and third parties** shall submit their comments in writing.

Paragraph 2

Following the expiration of the set period of time for receipt of comments from the parties to the dispute, the panel shall issue an interim report to the parties, including the descriptive sections and the panel's findings and conclusions. Within a period of time set by the panel, a party may submit a written request for the panel to review precise aspects of the interim report prior to circulation of the final report to the Members. At the request of **the parties a party**, the panel shall hold a further meeting with the parties on the issues identified in the written comments. **If no such meeting is requested, each party shall have an opportunity to comment in writing on the written comments previously submitted by other parties.** If no comments are received from any party within the comment period, the interim report shall be considered the final panel report and circulated promptly to the Members.

ARTICLE 17

Paragraph 1

A standing Appellate Body shall be established by the DSB. The Appellate Body shall hear appeals from panel cases. It shall be composed of **at least** seven persons, three of whom shall serve on any one case. **The total number of Appellate Body members may be modified by the DSB, after consultation of the General Council on any potential budgetary implications of the proposed modification.** Persons serving on the Appellate Body shall serve in rotation. Such rotation shall be determined in the working procedures of the Appellate Body.

Paragraph 4

Only parties to the dispute, not third parties, may appeal a panel report. Third parties which have notified the DSB of a substantial interest in the matter pursuant to paragraph 2 of Article 10, ~~may make written submissions to, and be given an opportunity to be heard by, the Appellate Body.~~ **shall have an opportunity to be heard and to make written submissions to the Appellate Body. [Any Member not having notified its substantial interest pursuant to Article 10.2, but having subsequently notified its substantial interest to the Appellate Body and the DSB within 10 days after the date of the notice of appeal, shall also have an opportunity to be heard and to make written submissions to the Appellate Body.]** The submissions of third parties shall also be given to the parties to the dispute.

Paragraph 5

(a) **A notification of appeal pursuant to paragraph 4 of Article 16 shall identify the relevant issues of law covered in the panel report and legal interpretations developed by the panel in sufficient detail to present the issues under appeal clearly.**

(b) **As a general rule, the proceedings shall not exceed 60 [90] days from the date a party to the dispute formally notifies its decision to appeal to the date the Appellate Body circulates its report. In fixing its timetable the Appellate Body shall take into account the provisions of paragraph 9 of Article 4, if relevant. When the Appellate Body considers that it cannot provide its report within 60 [90] days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case shall the proceedings exceed 90 [120] days.**

(c) **Following the consideration of submissions and oral arguments, the Appellate Body shall issue an interim report to the parties, including both the descriptive sections and the Appellate Body's findings and conclusions. Within a period of time set by the Appellate Body, a party may submit a written request for the Appellate Body to review precise aspects of the interim report prior to circulation of the final report to the Members. At the joint request of the parties, the Appellate Body shall hold a further meeting with the parties on the issues identified in the written comments. If no comments are received within the comment period, the interim report shall be considered the final report and circulated promptly to the Members. The final Appellate Body report shall include a discussion of the arguments made at the interim review stage.]**

(d) At the request of the parties, the Appellate Body shall suspend its work for a period of time determined by the parties. In the event of such a suspension, the time-frames set out in this paragraph, Article 20, and paragraph 4 of Article 21 shall be extended by the amount of time that the work was suspended.

(e) Where a settlement of the matter among the parties to the dispute has been found, the report of the Appellate Body shall be confined to a brief description of the case and to reporting that a solution has been reached.

Paragraph 12

The Appellate Body shall address each of the issues raised in accordance with paragraph 6 during the appellate proceeding.

Where, due to insufficient factual findings in the panel report⁷ or undisputed facts on the record of the panel proceedings, the Appellate Body is unable to fully address an issue, it shall indicate it in its report and explain in detail the specific insufficiencies in the factual findings and undisputed facts on the record. In such case, within 30 days from the adoption of the Appellate Body report by the DSB, the complaining party may request the DSB to remand that issue to the original panel, pursuant to the provisions of Article 17bis.

Where, on the basis of the factual findings of the panel or undisputed facts on the record of the panel proceedings, the Appellate Body is unable to establish whether a measure in respect of which an issue was raised on appeal is inconsistent with a covered agreement, it shall indicate it in its report. [In such a case, the Appellate Body shall not make a recommendation pursuant to paragraph 1 of Article 19 that the measure be brought into conformity with the covered Agreements.]

The remand procedure is without prejudice to the adoption of the relevant recommendations and rulings in relation to findings which were not appealed and issues on which the Appellate Body was able to fully address the issues under appeal. [The remand procedure shall not prevent the adoption of relevant recommendations and rulings in respect of measures found to be inconsistent with a covered Agreement on the basis of findings not affected by the situation giving rise to remand.]

[ARTICLE 17BIS]

1. When, pursuant to paragraph 12 of Article 17, a party to the dispute requests a remand, the DSB shall establish a remand panel at the meeting, at which the request for a remand appears as an item on the DSB's agenda, unless the DSB decides by consensus not to establish the panel⁸. The remand panel shall be composed of the members of the original panel⁹.
2. The terms of reference of the remand panel shall be:

"To examine, in the light of the relevant provisions in (name of the covered agreement(s) indicated by the AB in its report) the matter referred to the DSB under paragraph 12 of Article 17 in document and to make such findings, in accordance with the indications given by the Appellate Body in its report, 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 remand panel considers that it cannot issue its report within such timeframe, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it

⁷ This expression shall be understood to include reports by a compliance or remand panel.

⁸ If the complaining party so requests, a meeting of the DSB shall be convened for this purpose within 15 days of the request, provided that at least 10 days' advance notice of the meeting is given.

⁹ If any member of the original panel is not available, a replacement shall be appointed by the Director General within 7 days after the date of establishment of the panel, after consulting the parties to the dispute.

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 months¹⁰.

4. No later than 10 days 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. The DSB shall meet no later than 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 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. If a party has notified its decision to appeal, the report of the remand panel shall not be considered for adoption by the DSB until after completion of the appeal. This adoption procedure is without prejudice to the right of Members to express their views on a remand panel report.
5. If 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.]

ARTICLE 18 – COMMUNICATIONS WITH THE PANEL ~~AND~~ THE APPELLATE BODY, OR THE ARBITRATOR

Paragraph 2

Written submissions to the panel, ~~or~~ the Appellate Body **or the arbitrator** shall be treated as confidential, but shall be made available to the parties to the dispute, **and to third parties as foreseen in Article 10**. Nothing in this Understanding shall preclude a party to a dispute from disclosing statements of its own positions to the public. ~~Members shall treat as confidential information submitted by another Member to the panel or the Appellate Body which that Member has designated as confidential. Members may designate certain information that they submit to the panel, the Appellate Body or the arbitrator as "[privileged]". Such information shall be treated in accordance with procedures to be established by the DSB.~~

~~A party to a dispute shall also, upon request of a Member, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public. [A: After each meeting of a panel or oral hearing of the Appellate Body,] each party and third party to a dispute shall, if requested by any Member, provide a non-confidential version of the written submissions it has made to the panel [A: prior to that meeting], that could be disclosed to the public within [fifteen days] [30 days] after the date of such request. The Secretariat shall establish and administer a dispute settlement registry at the WTO to facilitate access to these non-confidential versions of written submissions. The DSB shall establish rules and procedures governing the Secretariat's administration of the registry.~~

ARTICLE 21

Paragraph 2

Particular attention ~~should~~ **shall** be paid to matters affecting the interests of developing country Members with respect to measures which have been subject to dispute settlement.

Paragraph 3

~~At a DSB meeting held within~~ **No later than 10** days after the date of adoption of the panel or Appellate Body ~~report by the DSB of its recommendations and rulings~~, the Member concerned shall inform the DSB of its intentions in respect of implementation of the recommendations and rulings of the DSB. If it is impracticable to comply immediately with the recommendations and rulings, the Member concerned shall have a reasonable period of time in which to do so. The reasonable period of time* shall be:

¹⁰ The DSB may adopt guidelines on the working procedures to be followed by remand panels and compliance panels.

- (a) the period of time proposed by the Member concerned, provided that such period is approved by the DSB; or, in the absence of such approval;
- (b) a period of time mutually agreed by the parties to the dispute ~~within 45 days after the date of adoption of the recommendations and rulings~~; or, in the absence of such agreement;
- (c) a period of time determined through binding arbitration ~~within 90 days after the date of adoption of the recommendations and rulings~~.¹¹ **Any party to the dispute may refer the matter to arbitration at any point in time after 30 days from the date of the adoption by the DSB of the recommendations and rulings. If the parties cannot agree on an arbitrator¹² within 10 days after referring the matter to arbitration, at the request of either party, the Director-General shall appoint the arbitrator, after consulting the parties¹³. The arbitrator shall issue its award to the parties within 50 days from the date of the appointment of the arbitrator.** In such arbitration, a guideline for the arbitrator¹⁴ should be that the reasonable period of time to implement panel or Appellate Body recommendations should not exceed 15 months from the date of adoption of a panel or Appellate Body report. However, that time may be shorter or longer, depending upon the particular circumstances. **If the Member concerned is a developing country Member, the arbitrator shall take due account of any particular problems which may affect the time within which that Member can implement the DSB recommendations and rulings. In addition, if the Member concerned is a least-developed country Member, due consideration shall be given to the special situation faced by such countries.**

* The expression "reasonable period of time" shall be understood to refer also, where relevant, to the time-periods provided for in paragraph 7 of Article 4 and paragraph 9 of Article 7 of the Agreement on Subsidies and Countervailing Measures.

Paragraph 5

Deletion of existing text, to be replaced by the following:

[During the reasonable period of time, each party to the dispute shall accord sympathetic consideration to any request from another party to the dispute to discuss possible mutually satisfactory solutions for the implementation of the recommendations and rulings of the DSB.]

Paragraph 6

- (a) The DSB shall keep under surveillance the implementation of adopted recommendations and rulings. The issue of implementation of the recommendations and rulings may be raised at the DSB by any Member at any time following their adoption.
- (b) ~~Unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved. The Member concerned shall report on the status of implementation of the recommendations and rulings of the DSB at each DSB meeting where any Member may raise any point pertaining thereto. The Member concerned shall start to report under this provision from the midpoint of the length of the reasonable period of time or 6 months after the date of adoption of the recommendations and rulings of the DSB, whichever is the earlier, and continue until the parties to the dispute have mutually agreed that the issue is resolved.~~^{15**} At least 10 days prior to each such DSB meeting, the Member concerned shall provide the DSB with a **detailed written** status report **concerning** its progress in the implementation of the recommendations and rulings, **[including any specific measures taken by the Member concerned since the last report]**. **The final status report prior to**

¹¹ [If the parties cannot agree on an arbitrator within ten days after referring the matter to arbitration, the arbitrator shall be appointed by the Director-General within ten days, after consulting the parties.]

¹² The expression "arbitrator" shall be interpreted as referring either to an individual or a group.

¹³ **The Director-General shall appoint the arbitrator within 7 days, unless the parties agree otherwise.]**

¹⁴ The expression "arbitrator" shall be interpreted as referring either to an individual or a group.

¹⁵ **The obligation to report on the status of implementation shall be suspended from the date of establishment of a compliance panel under Article 21bis until the adoption by the DSB of the panel report on compliance and, where relevant, the Appellate Body report on compliance.**

the expiry of the reasonable period of time shall include any measures that the Member concerned has taken to comply and any measures that it expects to have taken by the expiry of the reasonable period of time. The Director-General will issue [every six months][once a year] a public report on the status of implementation of DSB recommendations and rulings.

* Where the Member concerned is a developing country Member, it shall report on the status of its implementation at least at every second scheduled DSB meeting and shall provide a detailed written status report at least 10 days prior to each DSB meeting at which it is required to report.

(c) (i) When the Member concerned considers that it has complied with the recommendations and rulings of the DSB, it shall submit to the DSB a written notification of the measures it has taken to comply.

[(ii) If the Member concerned has not submitted a notification under subparagraph (i) by the date of expiry of the reasonable period of time for implementation, the Member concerned shall submit, at that date, a written notification of any measures it has taken to comply.]

[(iii) If the Member concerned has not submitted a notification under subparagraph c(i) or a final status report under subparagraph by the date that is 45 days before the date of expiry of the reasonable period of time, it shall, at the latest 15 days after that date, notify any measures that the Member concerned has taken to comply and any measures that it expects to have taken by the expiry of the reasonable period of time.]

Any notification under this subparagraph (c) shall include a detailed description as well as the text of any relevant measures the Member concerned has taken.

ARTICLE 21BIS – DETERMINATION OF COMPLIANCE

Paragraph 1

Where there is disagreement between the complaining party and the Member concerned as to the existence or consistency with one or more covered agreement of measures taken to comply with the recommendations and rulings of the DSB, such disagreement shall be resolved through recourse to the dispute settlement procedures provided for in this Article. ^[16]

Paragraph 2

The complaining party may request [A: consultations under this Article][B: the establishment of a compliance panel] at any time after:

- (i) the Member concerned has indicated that it does not need a reasonable period of time for implementation pursuant to paragraph 3 of Article 21; or
- (ii) the Member concerned has submitted a notification of compliance pursuant to paragraph 6(c) (i) of Article 21; or
- (iii) [A: 20 days before] the date of expiry of the reasonable period of time;

whichever is the earlier. Such request shall be made in writing.

[The complaining party may also request [A: consultations under this Article][B: the establishment of a compliance panel] at any time if it considers that the Member concerned has taken a measure to comply with the recommendations and rulings of the DSB which is inconsistent with the covered agreements.]

¹⁶ [This is without prejudice to the right of a party or the parties to have recourse to other dispute settlement procedures under this Understanding, including the procedures under Article 5 or Article 25.]

[A: The Member to which the request is made shall, unless it has been otherwise agreed with the complaining party, reply to the request within 10 days after the date of its receipt and shall enter into consultations in good faith within 20 days from the date of circulation of the request.]

Paragraph 3

[A: At any time 20 days after the circulation of the request for consultations, the complaining party may request the establishment of a compliance panel.]

The compliance panel shall be composed of the members of the original panel.¹⁷

Paragraph 4

In its request for the establishment of a compliance panel, the complaining party shall identify the specific measures at issue and provide a brief summary of the legal basis of the complaint, sufficient to present the problem clearly. If the complainant party requests the establishment of a panel with other than standard terms of reference, the written request shall include the proposed text of special terms of reference. Unless the parties to the compliance panel proceedings agree on special terms of reference within 5 days from the establishment of the compliance panel, the compliance panel shall have standard terms of reference in accordance with Article 7.

Paragraph 5

The DSB shall establish a compliance panel at the meeting at which, at the request of the complaining party, the request first appears as an item on the agenda¹⁸, unless the DSB decides by consensus not to establish a panel.

Paragraph 6

The compliance panel shall circulate its report to the Members within 90 days of the date of its establishment.

Paragraph 7

[The compliance panel report shall be adopted by the DSB at the request of any party unless a party to the compliance panel proceedings formally notifies the DSB of its decision to appeal or the DSB decides by consensus not to adopt the report]¹⁹ This adoption procedure is without prejudice to the right of Members to express their views on a compliance panel report.

Paragraph 8

Where the report of the compliance panel is appealed, the appellate review proceedings, as well as the adoption of the Appellate Body report on compliance, shall be conducted in accordance with Article 17.

Paragraph 9

Where the compliance panel or the Appellate Body concludes that the Member concerned has failed to bring the measure found to be inconsistent with one or more of the covered agreements into conformity therewith or otherwise comply with the recommendations and rulings of the DSB within the reasonable period of time, the Member concerned shall not be entitled to any further period of time for implementation following adoption by the DSB of its recommendations and rulings.

¹⁷ If any member of the original panel is not available, the Director-General shall appoint a replacement within 7 days after the date of establishment of the compliance panel, after consulting with the parties to the arbitration, unless the Director-General has been requested not to do so by the parties to the compliance panel procedure.

¹⁸ If the complaining party so requests, a meeting of the DSB shall be convened for this purpose within 15 days of the request, provided that at least 10 days' advance notice of the meeting is given.

¹⁹ If the complaining party so requests, a meeting of the DSB shall be convened for this purpose within 15 days of the request, provided that at least 10 days' advance notice of the meeting is given.

Paragraph 10

The compliance panel shall establish its own working procedures. The provisions of [Articles 1 through 3, [4, 7.2,] 8 through 14, [16.2], 18, 19, 21.1, 21.2, 21.7, 21.8, 23, 24, 26, 27 [and 28, as well as appendices 1 and 2]] of this Understanding shall apply *mutatis mutandis* to compliance panel proceedings, to the extent that they are not incompatible with the specific procedures and time frames provided for under this Article.

ARTICLE 22

Paragraph 1bis

At any point of time after the adoption by the DSB of its recommendations and rulings and before the submission of the request for authorization for suspension of concessions or other obligations referred to in paragraph 2 of this Article, the parties may agree to refer to arbitration the determination of the level of nullification or impairment caused by measures found to be inconsistent with one or more covered agreements.

[The complaining party may request such arbitration at any point of time after the expiry of the reasonable period of time where the parties agree that the Member concerned has not implemented the rulings and recommendations of the DSB. Where procedures under Article 21bis have been initiated, the complaining party may request such arbitration only after the adoption of the compliance panel report and, as relevant, the Appellate Body report on compliance.]

[If a compliance panel is established under Article 21bis after an arbitration has been requested under this [sub]paragraph, the arbitration procedure shall be suspended until the adoption of the compliance panel report and, as relevant, the Appellate Body report on compliance].

Such arbitration shall be carried out by the original panel, if members are available.²⁰

The arbitration shall be completed and the award of the arbitrator shall be circulated to Members within 45 days after the date of the request. The award of the arbitrator²¹ shall be final, and parties shall accept it as the level of nullification or impairment for purposes of any subsequent proceedings under paragraph 6 of this Article related to the same measures.

Paragraph 2

Deletion of existing text, to be replaced by the following:

(a) The complaining party may either request the Member concerned to enter into consultations with a view to agreeing on a mutually acceptable trade or other compensation, or request an authorization from the DSB to suspend the application to the Member concerned of concessions or other obligations under the covered agreements in accordance with paragraph 6 of this Article, at any time after:

- (i) the Member concerned does not inform the DSB pursuant to paragraph 3 of Article 21 that it intends to implement the recommendations or rulings of the DSB; or
- (ii) the Member concerned does not submit within the required time period a notification pursuant to paragraph 6(c) of Article 21 stating that the Member concerned has complied; or
- (iii) a compliance panel report pursuant to Article 21bis and, where that report has been appealed, the Appellate Body report conclude that the Member concerned has failed to bring the measures found to be inconsistent with a covered agreement into compliance therewith or otherwise

²⁰ If any member of the original panel is not available, and the parties to the arbitration do not agree on a replacement, at the request of any party the Director-General shall appoint a replacement within 7 days after the matter is referred to the arbitration, after consulting with the parties to the arbitration.

²¹ The expression "arbitrator" shall be interpreted as referring either to an individual or a group.

comply with the recommendations or rulings of the DSB, and the DSB has adopted such report or reports.

(b) The procedures in paragraph *2bis* shall apply to compensation.

[(c) Where there is disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendation and rulings, proceedings shall be undertaken under Article 21 *bis* before recourse may be had to this paragraph.]

Paragraph 2bis

- (a) The Member concerned shall, if so requested by the complaining party, enter into consultations with a view to agreeing on a mutually acceptable trade or other compensation at any point in time after any of the situations referred to in sub-paragraphs i), ii) or iii) of paragraph 2 occurs. Where the complaining party has requested consultations under this paragraph, it may not request authorization from the DSB to suspend the application to the Member concerned of concessions or other obligations under the covered agreements in the 30 day period following the request for consultations.
- (b) Within [A: 30][B: 20] days from the request, the Member concerned [shall][should] submit to the other Member a proposal for mutually acceptable trade or other compensation, taking into account any prior request put forward by the complaining party during these consultations. [B: If the Member concerned does not submit such a proposal within 20 days from the request, the complaining Member may request authorization from the DSB to suspend the application to the Member concerned of concessions or other obligations under the covered agreements, notwithstanding the provisions of subparagraph (a).]
- (c) Where the complaining party is a developing country Member, the proposal should take into account all relevant circumstances and considerations relating to the application of the measure and its impact on the trade of that developing country Member. In such cases, the suitable form of compensation should also be an important consideration. Where the complaining party is a least developed country Member, special consideration shall be given to the specific constraints that may be faced by such countries in finding effective means of action through the possible withdrawal of concessions or other obligations.
- (d) If the parties to the dispute reach an agreement on mutually acceptable trade or other compensation, they shall notify the text of such agreement to the DSB. The Member concerned shall notify to the DSB the measures it has taken in application of the compensation agreement.

Paragraph 2ter

- (a) Except as provided for in the previous paragraph, a complaining party shall be entitled to request authorization from the DSB to suspend the application to the Member concerned of concessions or other obligations under the covered agreements at any point in time after any of the situations referred to in sub-paragraphs i) ii) or iii) of paragraph 2 occurs. [The complaining party shall also submit, at the same time, an indicative list of the concessions or other obligations it proposes to suspend.²²]
- (b) A meeting of the DSB shall be convened for the purpose of authorizing the suspension of concessions or other obligations no later than 15 days after the request, unless the complaining party requests that the meeting be held at a later date^{23 24}.

²² [This list shall be without prejudice to the determination by that Member of the specific concessions or other obligations that it may ultimately suspend.]

²³ In the case of paragraph 2 (ii) above, such DSB meeting shall not be convened before the expiry of the reasonable period of time.

²⁴ The DSB shall not consider the request for authorization to suspend the application to the Member concerned of concessions or other obligations until after it has adopted the report on compliance.

Paragraph 6

(a) When the **complainant party has requested the situation described in paragraph 2 occurs, the DSB, upon request, shall grant authorization to suspend concessions or other obligations pursuant to paragraph 2ter, the DSB shall authorize the suspension at the meeting at which, at the request of the complaining party, the request first appears as an item on the DSB's agenda within 30 days of the expiry of the reasonable period of time unless the DSB decides by consensus to reject the request.**²⁵ However, if the Member concerned objects to the level of suspension proposed, or claims that the principles and procedures set forth in paragraph 3 have not been followed where a complaining party has requested authorization to suspend concessions or other obligations pursuant to paragraph 3(b) or (c), the matter shall be referred to arbitration.

(b) ~~Such arbitration shall be carried out by the original panel, if members are available, or by an arbitrator²⁶ appointed by the Director General and shall be completed within 60 days after the date of expiry of the reasonable period of time.~~ **The arbitration shall be carried out by the original panel, if members are available.²⁷ The award of the arbitrator shall be circulated within 60 days from the referral of the matter to arbitration. However, if an arbitration procedure under Article 22.1bis has taken place in respect of the same measure, the arbitrator's award shall be circulated within 30 days from the referral of the matter to arbitration. The complaining party shall not suspend concessions or other obligations during the course of the arbitration.**

Paragraph 7

(a) The arbitrator acting pursuant to paragraph 6 shall not examine the nature of the concessions or other obligations to be suspended but shall determine whether the level of such suspension is equivalent to the level of nullification or impairment. The arbitrator may also determine if the proposed suspension of concessions or other obligations is allowed under the covered agreement. However, if the matter referred to arbitration includes a claim that the principles and procedures set forth in paragraph 3 have not been followed, the arbitrator shall examine that claim. In the event the arbitrator determines that those principles and procedures have not been followed, the complaining party shall apply them consistent with paragraph 3. The parties shall accept the arbitrator's decision as final and the parties concerned shall not seek a second arbitration. The DSB shall be informed promptly of the decision of the arbitrator ~~and shall upon request, grant authorization to suspend concessions or other obligations where the request is consistent with the decision of the arbitrator, unless the DSB decides by consensus to reject the request.~~

(b) **At any time after the circulation of the award of the arbitrator, the complaining party may submit a request to the DSB for an authorization to suspend concessions or other obligations. [It shall also submit, at the same time, an indicative list of those concessions and other obligations that it proposes to suspend²⁸]. The DSB shall grant authorization to suspend concessions or other obligations where the request is consistent with the determinations made by the arbitrator, unless the DSB decides by consensus to reject the request.**

Paragraph 8

(a) The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the measure found to be inconsistent with a covered agreement has been removed, or the Member that must implement recommendations and rulings provides a solution to the nullification or impairment of benefits, or a mutually satisfactory solution is reached.

(b) In accordance with paragraph 6 of Article 21, the DSB shall continue to keep under surveillance the implementation of adopted recommendations and rulings, including those cases where compensation has been provided or concessions or other obligations have been suspended but the recommendations to bring a measure into conformity with the covered agreements have not been implemented. **Members which have been granted the**

²⁵ **If the complaining party so requests, a meeting of the DSB shall be convened for this purpose within 15 days of the request for a meeting, provided that at least 10 days' advance notice of the meeting is given.**

²⁶ ~~The expression "arbitrator" shall be interpreted as referring either to an individual or a group.~~

²⁷ **If any members of the original panel are not available, the procedures provided for in Article 22.1bis for the appointment of a replacement panel shall apply.**

²⁸ **[This list shall be without prejudice to the determination by that Member of the specific concessions or other obligations that it may ultimately suspend.]**

authorization to suspend concessions or other obligations shall promptly notify the DSB of any measures taken in relation to that authorization.

Paragraph 9 (to be created)

(a) After the DSB has authorized the suspension of concessions or other obligations pursuant to paragraph 6 or 7 of this Article, the Member concerned may request the withdrawal of such authorization on the grounds that it has implemented the recommendations and rulings of the DSB [and eliminated the inconsistency or the nullification or impairment of benefits under the covered agreements identified in the recommendations and rulings of the DSB]. The Member concerned shall include with any such request a written notice to the DSB describing in detail the measures it has taken, providing the text of the relevant measures, and requesting a meeting of the DSB. The DSB shall not consider the request until 20 days after the date of its circulation. The DSB shall withdraw the authorization for suspension of concessions and other obligations unless the complaining party [notifies the DSB of its decision to request][requests, at that meeting,] the establishment of a compliance panel under Article 21*bis* or the DSB decides by consensus not to withdraw the authorization.²⁹

(b) If the complaining party has requested the establishment of a compliance panel, the provisions of Article 21*bis* shall apply to the establishment of such panel and to its proceedings. If the measures at issue are found not to be inconsistent with one or more covered agreements and to comply with the recommendations and rulings of the DSB in the dispute, the Member concerned may request a meeting of the DSB to terminate the authorization for the suspension of concessions or other obligations at any time after the adoption of the compliance panel report and, where relevant, of the Appellate Body report on compliance. The DSB shall meet at no later than 15 days³⁰ after such a request unless the Member concerned requests that the meeting be held at a later date. At such meeting the DSB shall withdraw the authorization for suspension of concessions and other obligations unless the DSB decides by consensus not to do so.³¹

(c) The complaining party shall not maintain the suspension of concessions and other obligations after the DSB has withdrawn the authorization.

(d) If as a result of recourse to the dispute settlement procedures provided for in Article 21*bis*, the measures taken to comply by the Member concerned are found not to be consistent with a covered agreement or not to comply with the recommendations and rulings of the DSB in the dispute, any party to the dispute may, at any time after the adoption of the compliance panel report and, where relevant, the Appellate Body report on compliance, request an arbitration to determine the level of nullification or impairment caused by the measures at issue. Article 22.6 shall apply *mutatis mutandis* to such arbitration. If the level of nullification and impairment determined by the arbitrator under this paragraph differs from the level of suspension of concessions or other obligations previously authorized by the DSB, any party to the dispute may request a meeting of the DSB to modify the authorization for the suspension of concessions or other obligations. The DSB shall meet [10 days after such a request] unless the request indicates that the meeting is to be held at a later date. At such meeting, the DSB shall modify the authorization for suspension of concessions or other obligations according to the decision of the arbitrator, unless the DSB decides by consensus not to do so. The complaining party shall bring the suspension of concessions and other obligations into conformity with the authorization of the DSB.

(e) If the level of nullification or impairment has changed as a result of measures taken to comply by the Member concerned, and where there is no disagreement between the parties on the consistency of these measures, any party to the dispute may refer the matter to arbitration in accordance with Article 22.7 in order to determine the modified level of nullification or impairment. At any time after the circulation of

²⁹ If the Member concerned so requests, a meeting of the DSB shall be convened for this purpose within 15 days of the request for a meeting, provided that at least 10 days' advance notice of the meeting is given.

³⁰ In the case of an appeal, the DSB shall meet for this purpose on or after the date of the adoption of the Appellate Body report pursuant to Article 17.14.

³¹ The DSB shall not consider the request for the withdrawal of the authorization to suspend concessions or other obligations until after it has adopted the report of the compliance panel or the Appellate Body.

award of the arbitrator, any party to the dispute may request the DSB to modify the authorization in order to adjust to this change.]

ARTICLE 27

Paragraph 2

While the Secretariat assists Members in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing country Members. To this end, **the Secretariat shall maintain a roster of qualified legal experts, from which an expert shall be made available to any developing country Member which so requests.** These experts shall assist the developing country Member in a manner ensuring the continued impartiality of the Secretariat.

[ARTICLE 28 – LITIGATION COSTS]

[Members shall bear their own costs in procedures brought under this Understanding. However, a panel or the Appellate Body may decide to award, at the request of [the parties][one of the parties] to a dispute, an amount for litigation costs, taking into account the specific circumstances of the case, the respective conditions of the parties concerned and special and differential treatment to developing country Members. Where a panel or the Appellate Body decides to grant such costs, it shall be guided by principles to be determined in a decision by the DSB.]

APPENDIX 3

Paragraph 6

The panel shall invite in writing all ~~At~~ third parties which have notified their interest in the dispute to the DSB ~~shall be invited in writing to present their views during a session of~~ to make a written submission to the panel and to be present at the first substantive meeting of the panel with the parties ~~set aside for that purpose.~~ At that meeting, the panel shall also give third parties an opportunity to present their views.

Paragraph 7

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 panel shall invite in writing the third parties to be present at the second substantive meeting.

Paragraph 8

The panel may put questions to the parties at any time and ask them for explanations either in the course of a meeting with the parties or in writing. **The panel may also put questions to the third-parties and ask them for explanations either in the course of a meeting with the parties or in writing, at any time prior to the issuance of the interim report to the parties.**

Paragraph 10

Deletion of existing paragraph.

Paragraph 12

(...)

The above calendar may be changed in the light of unforeseen developments. Additional meetings with the parties shall be scheduled if required. **The panel shall invite the third parties to be present at any additional substantive meeting held prior to the issuance of the interim report to the parties.**

II. PROPOSED DECISION BY THE GENERAL COUNCIL

The General Council,

Having regard to Article 27.2 of the DSU;

[*Having regard to* paragraph 30 of the Doha Ministerial Declaration on the improvement and clarification of the Dispute Settlement Understanding;]

Having regard to paragraphs 38 to 41 of the Doha Ministerial Declaration and the need for effective delivery of technical assistance to developing countries as affirmed by Ministers;

Recognizing that developing country Members, in particular the least-developed among them, may face particular constraints in making effective use of the dispute settlement procedures contained in the DSU;

Desiring to give effect to the provisions of Article 27 of the DSU in order to assist developing country Members in enhancing their capacity to make effective use of the dispute settlement procedures, and build capacity in the area of dispute settlement, thereby assisting them to exercise the rights of their membership;

Decides as follows:

1. The Secretariat is instructed to maintain and administer, through its technical cooperation services, a roster comprised of at least [x] qualified legal experts, whose services would be made available to developing country Members for the provision of legal advice and assistance in respect of dispute settlement pursuant to paragraph 2 of Article 27 of the DSU;
 2. The General Council requests the Budget Committee to explore the manner in which adequate resources, including through voluntary extra-budgetary contributions, can be ensured for the delivery of technical assistance under Article 27 of the DSU, including the provision of legal assistance as foreseen in paragraph 2 of that provision, and to report to the General Council by [--].
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