

ANNEX E

PANEL'S WORKING PROCEDURES

6 July 2005

CONFIDENTIAL

***EUROPEAN COMMUNITIES – SELECTED CUSTOMS MATTERS
(WT/DS315)***

WORKING PROCEDURES

1. The Panel will provide the parties with a timetable for panel proceedings and will work according to the normal working procedures as set out in the DSU and its Appendix 3 plus certain additional procedures, as follows:
2. The Panel shall meet in closed session. The parties to the dispute, and the third parties, shall be present at the meetings only when invited by the Panel to appear before it.
3. The deliberations of the Panel and the documents submitted to it shall be kept confidential. Nothing in the DSU 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 which that Member has designated as confidential. As provided in Article 18.2 of the DSU, where a party to a dispute submits a confidential version of its written submissions to the Panel, it shall also, upon request of a Member, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public.
4. Before the first substantive meeting of the Panel with the parties, the parties to the dispute shall transmit to the Panel written submissions in which they present the facts of the case and their arguments.
5. At its first substantive meeting with the parties, the Panel shall ask the party which has brought the complaint to present its case. Subsequently, at the same meeting, the party against which the complaint has been brought shall be asked to present its points of view.
6. The third parties shall be invited in writing to present their views during a session of the first substantive meeting of the Panel set aside for that purpose. All third parties may be present during the entirety of this session.
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.
8. The Panel may at any time put questions to the parties and ask them for explanations either in the course of a meeting with the parties or in writing. Written replies to questions shall be submitted by the dates indicated in the Panel's timetable.

9. The parties and the third parties shall make available to the Panel and the other parties a provisional written version of their statements at hearings. Final written versions of oral statements must be submitted on the dates provided for in paragraph 18 (c) of these Working Procedures.

10. In the interest of full transparency, the presentations, rebuttals and statements referred to in paragraphs 5 to 9 shall be made in the presence of the parties. Moreover, each party's written submissions, including responses to questions put by the Panel, comments on those responses, executive summaries, comments on the descriptive part of the report, and comments on the interim report, shall be made available to the other party.

11. Any request for a preliminary ruling (including rulings on jurisdictional issues) to be made by the Panel shall be submitted no later than in a party's first written submission. If the complaining party requests any such ruling, the respondent shall submit its response to such a request in its first written submission. If the respondent requests any such ruling, the complaining party shall submit its response to such a request prior to the first substantive meeting of the Panel. The complaining party shall submit this response at a time to be determined by the Panel after receipt and in light of the respondent's request. Exceptions to this procedure will be granted upon a showing of good cause.

12. Parties shall submit all factual evidence to the Panel no later than during the first substantive meeting, except with respect to evidence necessary for purposes of rebuttals, answers to questions or comments made for purposes of rebutting answers provided by others. Exceptions to this procedure will be granted upon a showing of good cause. In such cases, the other party shall be accorded a period of time for comment, as appropriate.

13. To facilitate the maintenance of the record of the dispute, and for ease of reference to exhibits submitted by the parties, parties are requested to number their exhibits sequentially throughout the stages of the dispute.

14. The parties and the third parties should submit executive summaries in accordance with the Panel's timetable. Each summary provided by the parties should not exceed 10 pages. The summary to be provided by each third party should not exceed 5 pages. The executive summaries shall not serve in any way as a substitute for the submissions of the parties or third parties. However, the Panel will reproduce the executive summaries provided by the parties and third parties in the descriptive part of its report, subject to any modifications deemed appropriate by the Panel.

15. The parties and third parties to this proceeding have the right to determine the composition of their own delegations. Delegations may include, as representatives of the government concerned, private counsel and advisers. The parties and third parties shall have responsibility for all members of their delegations and shall ensure that all members of their delegations act in accordance with the rules of the DSU and the Working Procedures of this Panel, particularly in regard to confidentiality of the proceedings. Parties shall provide a list of the participants of their delegation before the beginning of the meeting with the Panel.

16. Following issuance of the interim report, the parties shall have no less than 2 weeks to submit written requests to review precise aspects of the interim report and to request a further meeting with the Panel. The right to request such a meeting must be exercised no later than at the time the written request for review is submitted. Following receipt of any written requests for review, in cases where no further meeting with the Panel is requested, the parties shall have no less than 7 days to submit written comments on the other parties' written requests for review. Such comments shall be strictly limited to commenting the other parties' written requests for review.

17. The Panel will do its utmost to provide the parties with electronic versions of the descriptive part of its report, its interim report and its final report. Hard copies will be provided to the parties in

any event. In case of inconsistency between the electronic and hard copy version of these documents, the hard copy version shall prevail.

18. The following procedures regarding service of documents apply:

- (a) Each party and third party shall serve its submissions, including its executive summaries mentioned in paragraph 14 above, directly on all other parties, including where appropriate the third parties, and confirm that it has done so at the time it provides its submission to the Panel.
 - (b) The parties and the third parties should provide their written submissions and written answers to questions by 5:30 p.m. on the deadlines established by the Panel, unless a different time is set by the Panel.
 - (c) Parties and third parties shall provide the Secretariat with copies of the final written versions of their oral statements by 5:30 p.m. on the first working day following the last day of the substantive meetings.
 - (d) The parties and third parties shall provide the Panel with 10 copies of all their submissions, including the written versions of oral statements and answers to questions. All these copies shall be filed with the Dispute Settlement Registrar, Mr. XXXXX (office number xxxx).
 - (e) At the time they provide a hard copy of their submissions, the parties and third parties shall also provide the Panel with an electronic copy of all their submissions on a diskette or as an e-mail attachment in a format compatible with the Secretariat's software. E-mail attachments shall be sent to the Dispute Settlement Registry (DSRegistry@wto.org) with a copy to XXXXX (e-mail: XXXXX@wto.org) and to XXXXX (email: XXXXX@wto.org).
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