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1 RULE 23BIS: AMENDING A NOTICE OF APPEAL / NOTICE OF OTHER APPEAL

1.1 Text of Rule 23bis

Amending Notices of Appeal

23bis. (1) The division may authorize an original appellant to amend a Notice of Appeal or an other appellant to amend a Notice of Other Appeal.

(2) A request to amend a Notice of Appeal or a Notice of Other Appeal shall be made as soon as possible in writing and shall state the reason(s) for the request and identify precisely the specific amendments that the appellant or other appellant wishes to make to the Notice. A copy of the request shall be served on the other parties to the dispute, participants, third participants and third parties, each of whom shall be given an opportunity to comment in writing on the request.

(3) In deciding whether to authorize, in full or in part, a request to amend a Notice of Appeal or Notice of Other Appeal, the division shall take into account:

(a) the requirement to circulate the appellate report within the time-period set out in Article 17.5 of the DSU or, as appropriate, Article 4.9 of the *SCM Agreement*; and,

(b) the interests of fairness and orderly procedure, including the nature and extent of the proposed amendment, the timing of the request to amend a Notice of Appeal or Notice of Other Appeal, any reasons why the proposed amended Notice of Appeal or Notice of Other Appeal was not or could not have been filed on its original date, and any other considerations that may be appropriate.

(4) The division shall notify the parties to the dispute, participants, third participants, and third parties of its decision. In the event that the division authorizes an amendment to a Notice of Appeal or a Notice of Other Appeal, it shall provide an amended copy of the Notice to the DSB.

1.2 Application of Rule 23bis

1. In *EC and certain member States – Large Civil Aircraft*, the European Union requested authorization to amend its Notice of Appeal pursuant to Rule 23bis of the Working Procedures in order to correct certain discrepancies in the references to paragraph numbers of the Panel Report, as well as two typographical errors. The Division provided the United States and the third participants with an opportunity to comment in writing. No objections to the European Union’s request were received, and the Division authorized the European Union to amend its Notice of Appeal.¹

Current as of: December 2020

¹ Appellate Body Report, *EC and certain member States – Large Civil Aircraft*, para. 16.