

1 RULE 4	1
1.1 Text of Rule 4.....	1
1.2 General.....	1

1 RULE 4

1.1 Text of Rule 4

Collegiality

4. (1) To ensure consistency and coherence in decision-making, and to draw on the individual and collective expertise of the Members, the Members shall convene on a regular basis to discuss matters of policy, practice and procedure.

(2) The Members shall stay abreast of dispute settlement activities and other relevant activities of the WTO and, in particular, each Member shall receive all documents filed in an appeal.

(3) In accordance with the objectives set out in paragraph 1, the division responsible for deciding each appeal shall exchange views with the other Members before the division finalizes the appellate report for circulation to the WTO Members. This paragraph is subject to paragraphs 2 and 3 of Rule 11.

(4) Nothing in these Rules shall be interpreted as interfering with a division's full authority and freedom to hear and decide an appeal assigned to it in accordance with paragraph 1 of Article 17 of the DSU.

1.2 General

1. In a 7 February 1996 communication from the Appellate Body to the Chairman of the DSB explaining some of the rules in the Working Procedures, the Appellate Body offered the following explanation of Rule 4 and collegiality:

"The Appellate Body would like to draw your attention in particular to those parts of the Working Procedures for Appellate Review that bear on collegiality. This is a matter that has been emphasized from the very beginning in the consultations with the Appellate Body ...

According to Article 17(1) of the DSU, the Appellate Body is composed of seven persons, only three of whom shall serve in any one case. That provision, like every other provision of the DSU, has to be respected fully. Thus, the decision in every appeal will be made only by the three who serve on the division for that case. At the same time, it is also important to ensure consistency and coherence in our decision-making, which is to the advantage of every WTO Member and the overall multilateral trading system we all share. We feel this can best be done by drawing, within the parameters of Article 17 of the DSU, on the individual and collective expertise of all the Members of the Appellate Body.

In order to attain these objectives, Rule 4(1) provides for meetings of the entire Appellate Body on a regular basis to discuss matters of policy, practice and procedure. Further, Rule 4(2) foresees that each Member of the Appellate Body shall receive all documents filed in an appeal, in order to allow what Rule 4(3) prescribes, namely that "the division responsible for deciding each appeal shall exchange views with the other Members before the division finalizes the appellate report..."

The Appellate Body believes that such a system is consistent with Article 17 of the DSU. To avoid any doubt, Rule 4(4) of our Working Procedures for Appellate Review states expressly, "Nothing in these Rules shall be interpreted as interfering with a

division's full authority and freedom to hear and decide an appeal assigned to it in accordance with paragraph 1 of Article 17 of the DSU."¹

Current as of: January 2018

¹ WT/AB/WP/W/1, p. 2.