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**1 RULE 5**

**1.1 Text of Rule 5**

***Chairman***

5. (1) There shall be a Chairman of the Appellate Body who shall be elected by the Members.

(2) The term of office of the Chairman of the Appellate Body shall be one year. The Appellate Body Members may decide to extend the term of office for an additional period of up to one year. However, in order to ensure rotation of the Chairmanship, no Member shall serve as Chairman for more than two consecutive terms.

(3) The Chairman shall be responsible for the overall direction of the Appellate Body business, and in particular, his/her responsibilities shall include:

- (a) the supervision of the internal functioning of the Appellate Body; and
- (b) any such other duties as the Members may agree to entrust to him/her.

(4) Where the office of the Chairman becomes vacant due to permanent incapacity as a result of illness or death or by resignation or expiration of his/her term, the Members shall elect a new Chairman who shall serve a full term in accordance with paragraph 2.

(5) In the event of a temporary absence or incapacity of the Chairman, the Appellate Body shall authorize another Member to act as Chairman *ad interim*, and the Member so authorized shall temporarily exercise all the powers, duties and functions of the Chairman until the Chairman is capable of resuming his/her functions.

**1.2 2002 Amendment of Rule 5(2)**

1. Rule 5(2) of the Working Procedures originally provided that the Chairman's term of office would be one year, and did not expressly provide for the possibility of an extension. In a subsequent amendment, taking effect on 24 January 2002, Rule 5(2) was amended. The Appellate Body explained the reason behind the amendment in a communication dated 10 July 2001:

"Under the current rules, therefore, an Appellate Body Member can only serve one consecutive term of one year as Chairman.

It may be useful to provide for more flexibility in this respect in the *Working Procedures* by giving the Appellate Body the possibility to extend the term of its Chairman by one year. The composition of both the Appellate Body and its Secretariat has recently been, and will in the near future continue to be, subject to considerable change. In order to ensure some continuity, it may be helpful to have a Chairman serving two consecutive terms of office of one year, rather than one. Furthermore, as of this year, and in line with his mandate under Rule 5(3) of the *Working Procedures*, the Chairman is more directly involved in the management of the Appellate Body Secretariat. The burden on the Chairman has thus considerably increased. In these circumstances, it is not certain that all Appellate Body Members are able to make themselves available to serve as Chairman thus reducing the pool of Members from which the Chairman is to be selected. For these reasons, the Appellate Body

considers it useful to amend the *Working Procedures* to allow it to extend the term of its Chairman by one year."<sup>1</sup>

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<sup>1</sup> WT/AB/WP/W/4, pp. 1-2.