

## ANNEX H

### WORKING PROCEDURES FOR THE PANEL

1. In its proceedings the Panel shall follow the relevant provisions of the Dispute Settlement Understanding (DSU). In addition, the following working procedures shall apply.
2. The Panel will provide the Parties<sup>1</sup> and Third Parties<sup>2</sup> with a timetable for its proceedings. The timetable may be modified by the Panel as appropriate, after having consulted the Parties.
3. The Panel shall meet in closed session. The Parties, and interested Third Parties, shall be present at the meetings only when invited by the Panel to appear before it.
4. The deliberations of the Panel and the documents submitted to it shall be kept confidential. Nothing in the DSU, nor in these Working Procedures, precludes a Party or a Third Party 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 submits a confidential version of its written submissions to the Panel, it shall also, upon request of the other Party, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public. Non-confidential summaries shall be normally submitted no later than one week after the written submission is presented to the Panel.
5. Before the substantive meeting of the Panel with the Parties, and in accordance with the timetable approved by the Panel, the Parties shall transmit to the Panel written submissions and subsequently written rebuttals in which they present the facts of the case, their arguments and their counter-arguments, respectively. Third Parties may transmit to the Panel written submissions after the first written submissions of the Parties have been presented, and in accordance with the timetable approved by the Panel.
6. All Third Parties shall be invited in writing to present their views during a session of the substantive meeting of the Panel set aside for that purpose. Third Parties may be present during the entirety of this session.
7. At its substantive meeting with the Parties, the Panel shall ask Argentina to present its case first. Subsequently, and still at the same meeting, Chile will be asked to present its point of view. At a separate session of the same meeting set aside for that purpose, Third Parties will be asked to present their views thereafter. Parties will then be allowed an opportunity for final statements, with Argentina presenting its statement first.
8. The Panel may at any time put questions to the Parties and to the Third Parties and ask them for explanations either in the course of the substantive meeting or afterwards in writing. Replies to questions shall be submitted in writing by the dates specified by the Panel after consultation with the Parties.
9. Each Party shall make available to the Panel and to the other Party a written version of its oral statements, preferably at the end of the meeting with the Panel, and in any event not later than the

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<sup>1</sup> Throughout this document, the term "Party" refers to either Argentina or Chile, as appropriate. The term "Parties" refers to both Argentina and Chile.

<sup>2</sup> Throughout the document, the term "Third Parties" refers to Australia, Brazil, Canada, China, Colombia, the European Communities, Peru, Thailand and the United States.

working day following the presentation. Any Third Party that wishes to present its views shall similarly make available to the Panel and to the Parties and other Third Parties a written version of their oral statements, preferably at the end of the meeting with the Panel, and in any event not later than the working day following the presentation. Parties and Third Parties shall provide the Panel and other participants at the respective session with a provisional written version of their oral statements at the time that the statements are made.

10. In the interest of full transparency, the oral presentations shall be made in the presence of the Parties. Moreover, each Party's written submissions, including replies to questions put by the Panel, shall be made available to the other Party. Third Parties shall receive copies of the Parties' first written submissions and rebuttals. Parties shall submit all factual evidence to the Panel as early as possible and no later than during the substantive meeting, except with respect to evidence necessary for purposes of answering to questions. Exceptions 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.

11. The Panel will incorporate the submissions from the Parties and Third Parties, including the first written submissions, rebuttals and written versions of oral statements as an appendix to the report. Parties and Third Parties will be free, if they so wish, to provide the Panel with a shorter version of their submissions for this purpose.

12. To facilitate the maintenance of the record of the dispute, and to maximize the clarity of submissions, in particular the references to exhibits submitted by Parties, Parties shall sequentially number their exhibits throughout the course of the dispute. For example, exhibits submitted by Argentina should be numbered ARG-1, ARG-2, etc. If the last exhibit in connection with the first submission was numbered ARG-5, the first exhibit of the next submission thus should be numbered ARG-6. Exhibits submitted by Chile should be numbered CHL-1, CHL-2, etc.

13. 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, as well as any other advisors consulted by a Party or Third Party, 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 or at the beginning of any meeting with the Panel.

14. 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 Argentina requests any such ruling, Chile shall submit its response to such a request in its first written submission. If Chile requests any such ruling, Argentina shall submit its response to such a request in its rebuttal submission. Exceptions to this procedure will be granted upon a showing of good cause.

15. The following procedures regarding service of documents shall apply:

- (a) Each Party shall serve its submissions directly on the other Party. Each Party shall, in addition, serve its first written submission and rebuttals on Third Parties. Each Third Party shall serve its submissions on the Parties and other Third Parties. Each Party and Third Party shall confirm in writing, at the time it provides the submission to the Secretariat, that copies have been served as required.
- (b) The Parties and Third Parties shall provide their written submissions to the Panel, through the Secretariat, by 5.00 p.m., local Geneva time, on the deadlines established by the Panel.

- (c) Parties and Third Parties shall provide the Secretariat with written copies of their oral statements on the working day following the date of the presentation.
- (d) The Parties and Third Parties shall provide the Secretariat with ten (10) paper copies of all their submissions as well as an "electronic" copy on a CD-ROM, diskette or as an e-mail attachment, in a format compatible with the Secretariat's software. Paper copies shall be delivered to the Dispute Settlement Registrar, \*\*\*\*\* (Room \*\*\*\*\*). Electronic copies should be sent by e-mail to \*\*\*\*\* at \*\*\*\*\*@wto.org, \*\*\*\*\* at \*\*\*\*\*@wto.org and \*\*\*\*\* at \*\*\*\*\*@wto.org.
- (e) The Panel will provide Parties with an electronic version of the descriptive part, the interim report and the final report, as well as of other documents as appropriate. When the Panel transmits to the Parties or Third Parties both paper and electronic versions of a document, the paper version shall constitute the official version for the purposes of the record of the dispute.

16. These working procedures may be modified by the Panel as appropriate, after having consulted the Parties.