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ANNEX D

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ANNEX D

EUROPEAN COMMUNITIES AND CERTAIN MEMBER STATES – MEASURES AFFECTING TRADE IN LARGE CIVIL AIRCRAFT, (WT/DS316), WORKING PROCEDURES OF THE PANEL

(30 March 2007)

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 shall conduct its internal deliberations in closed session. The parties to the dispute, and interested third parties, shall be present at meetings only when invited by the Panel to appear before it. The Panel may open its meetings with the parties to the public, subject to appropriate procedures to be adopted by the Panel after consulting with the parties. The Panel may open the third party session of its first substantive meeting to the public, subject to appropriate procedures to be adopted by the Panel after consulting with the parties and third parties.
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. 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. The parties may jointly or individually propose special procedures for the protection of certain confidential information. If the Panel receives such a proposal, it may adopt amendments to the present working procedures for the protection of certain confidential information as it considers appropriate. In the event that either of the parties makes such a proposal individually, the other party shall be given the opportunity to comment and/or make an alternative proposal.
5. 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, 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 submitted.
6. At its first substantive meeting with the parties, the Panel shall ask the United States to present its case. Subsequently, and at the same meeting, the European Communities will be asked to present its point of view. The parties will then be allowed an opportunity for final statements, with the United States presenting its statement first. Third parties will be asked to present their views thereafter at the separate session of the same meeting set aside for that purpose. Upon request, the parties will be allowed an opportunity to make written comments on the views presented by Third parties at this separate session.
7. All third parties which have notified their interest in the dispute to the Dispute Settlement Body shall be invited in writing to present their views during a session of the substantive meeting of the Panel set aside for that purpose. All such third parties may be present during the entirety of this session.

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8. Formal rebuttals shall be made at a second substantive meeting of the Panel. The European Communities shall have the right to take the floor first, to be followed by the United States. The parties shall submit, prior to that meeting, written rebuttals to the Panel.

9. 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 in writing. Answers to questions shall be submitted in writing by the date(s) specified by the Panel. Answers to questions after the first meeting shall be submitted in writing at the same time as the written rebuttals, unless the Panel specifies a different deadline.

10. The parties to the dispute and any third party invited to present its views shall make available to the Panel and the other party or parties a written version of their oral statements, preferably at the end of the meeting, and in any event not later than the day following the meeting. Parties and third parties are encouraged to provide the Panel and other participants in the meeting with a provisional written version of their oral statements at the time the oral statement is presented.

11. The parties and third parties shall make all submissions in an official WTO language, namely English, French or Spanish. This does not preclude a party or third party submitting exhibits in the original language, provided that it submits a version in an official WTO language at the same time. The Panel may grant extensions of time for submission of such language versions upon a showing of good cause.

12. In the interest of full transparency, the presentations, rebuttals and statements shall be made in the presence of the parties. Moreover, each party's written submissions, including responses to questions put by the Panel, shall be made available to the other party.

13. The parties should provide the Secretariat with an executive summary of the claims and arguments contained in their written submissions and oral presentations. These executive summaries will be used by the Secretariat only for the purpose of assisting the Secretariat in drafting a concise arguments section of the Panel report so as to facilitate timely translation and circulation of the Panel report to the Members. They shall not serve in any way as a substitute for the submissions of the parties. The summaries of the first written submission and rebuttal written submission shall be limited to twenty (20) pages each, and the summaries of the oral statements at the meetings will be limited to five (5) pages each. The Panel may vary these page limits. Third parties are requested to provide the Panel with executive summaries of their written submissions and oral presentations, of no more than five (5) pages each. The executive summaries shall be submitted to the Secretariat within ten days of the original submission or presentation concerned. Paragraph 19 shall apply to the service of executive summaries.

14. A party shall submit any request for preliminary ruling not later than its first submission to the Panel. If the complaining party requests such a ruling, the respondent shall submit its response to the request in its first submission. If the respondent requests such a ruling, the complaining party shall submit its response to the request prior to the first substantive meeting of the Panel, at a time to be determined by the Panel in light of the request. Exceptions to this procedure will be granted upon a showing of good cause.

15. 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 or answers to questions. Exceptions to this procedure will be granted upon a showing of good cause. The other party shall be accorded a period of time for comment, as appropriate, on any new factual evidence submitted after the first substantive meeting.

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16. The parties to the dispute have the right to determine the composition of their own delegations. The parties shall have the responsibility for all members of their delegations and shall ensure that all members of the delegation act in accordance with the rules of the DSU and the Working Procedures of this Panel, particularly in regard to confidentiality of the proceedings. The parties as well as third parties shall provide a list of their delegation before each meeting to the Secretary to the Panel, Mr. Hiromi Yano (e-mail: hiromi.yano@wto.org).

17. 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 should sequentially number their exhibits throughout the course of the dispute. For example, exhibits submitted by the United States could be numbered US-1, US-2, etc. If the last exhibit in connection with the first submission was numbered US-5, the first exhibit of its next submission thus would be numbered US-6. A party may rely on a sequential page numbering system to organize its exhibits, with appropriate references to such numbered pages in its submissions to the Panel.

18. Following issuance of the interim report, the parties shall have the time, as established by the timetable of the Panel, 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 that time. Following receipt of any written requests for review, if no further meeting with the Panel is requested, the parties shall have the opportunity, within a time-period specified by the Panel, to submit written comments on the other party's written requests for review. Such comments shall be strictly limited to responding to the other party's written request for review.

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

- (a) Each party and third party shall serve all of its written submissions (including any separate requests for preliminary ruling and responses thereto), executive summaries and written versions of oral statements, directly on all other parties, and on third parties as appropriate, and confirm that it has done so at the time it provides those submissions to the Secretariat.
- (b) The parties and third parties should provide their submissions to the Secretariat by 5:30 p.m. on the deadlines established by the Panel, unless a different time is set by the Panel.
- (c) Unless the Panel indicates otherwise, the parties and third parties shall provide the Secretariat with ten paper copies of each of their written submissions. These copies shall be filed with the Dispute Settlement Registrar, Mr. Ferdinand Ferranco (office 2150).
- (d) The parties and third parties shall provide electronic copies of all submissions to the Secretariat at the time they provide their submissions, if possible in a format compatible with that used by the Secretariat. If the electronic version is provided by e-mail, it should be addressed to DSRegistry@wto.org, and cc'd to judith.czako@wto.org, andrea.mastromatteo@wto.org, graham.cook@wto.org, nadiya.nychay@wto.org, michelle.healy@wto.org and hiromi.yano@wto.org. If the electronic version is provided by diskette or CD, four copies should be delivered to Mr. Ferdinand Ferranco (office 2150).
- (e) The Panel will endeavour to provide the parties with an electronic version of the descriptive part, the interim report and the final report, as well as of other documents as

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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.
