

**PROPOSED AMENDMENTS TO THE *WORKING PROCEDURES  
FOR APPELLATE REVIEW***

Communication from the Appellate Body

The following communication, dated 8 April 2004, from the Chairman of the Appellate Body, addressed to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 17.9 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

First, may I congratulate you on your appointment as Chair of the Dispute Settlement Body.

I write at the request of, and on behalf of, all seven Appellate Body Members. As you know, the principle of collegiality, in general, and Rule 4(1) of the *Working Procedures for Appellate Review* (the "*Working Procedures*"), in particular, direct Appellate Body Members to "convene on a regular basis to discuss matters of policy, practice and procedure." In our discussions, we have observed that the *Working Procedures*, adopted prior to the lodging of the first appeal in 1996, have operated smoothly and effectively. Nevertheless, the experience of the last eight years has revealed certain gaps in these provisions. Accordingly, we believe that the time is ripe to consider certain "improvements" to the text of the *Working Procedures*.<sup>1</sup>

To this end, we set out below an explanation of particular issues that we consider need to be addressed, as well as how we intend to deal with each issue through amendment(s) to the *Working Procedures*. We also attach, as an Annex to this letter, the text of the amendments we are considering.

We would welcome the views of WTO Members on these proposed amendments—or as to how any of our *Working Procedures* might be improved, and would appreciate your assistance in obtaining their views. We have been following closely the ongoing negotiations on the improvements and clarifications of the Dispute Settlement Understanding, and we realize that one of our proposals, namely that related to the contents of the Notice of Appeal, has also been raised in the context of those negotiations. In addition, we realize that the results of the negotiations may well require additional amendments to the *Working Procedures*. Nevertheless, we believe that it is useful to start the process of consultation now. As our consultations advance, and the negotiations process continues, it may be appropriate to consider at a later date whether the two sets of amendments would more suitably be made simultaneously, or on two separate occasions.

---

**\*NOTE CONCERNING DOCUMENT NUMBER:** This Communication was originally issued on 8 April 2004 as document WT/AB/WP/8. For technical reasons (explained in WT/AB/WP/W/9), it has been re-issued on 4 January 2005 as document WT/AB/WP/W/8.

<sup>1</sup>A copy of the current *Working Procedures*, WT/AB/WP/7, is enclosed for your information.

We have informed the Director-General that we are considering amending the *Working Procedures* and have provided him with a copy of this letter and the amendments we are considering. We intend to consult with him further once we have completed our consultations with you and in the light of any comments we receive from Members.

## **I. General Background**

We wish briefly to recall the legal framework within which any amendments to the *Working Procedures* would eventually be made. As you know, Article 17.9 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (the "DSU") provides:

Working procedures shall be drawn up by the Appellate Body *in consultation with the Chairman of the DSB* and the Director-General, and communicated to the Members for their information. (emphasis added)

Rule 32(2) of the *Working Procedures* provides:

The Appellate Body may amend these Rules in compliance with the procedures set forth in paragraph 9 of Article 17 of the DSU.

Furthermore, in December 2002, the DSB adopted additional procedures for consultations between Members and the Chairperson of the DSB with respect to amendments to the *Working Procedures*.<sup>2</sup>

Having set out the legal framework for amendments to the *Working Procedures*, we turn to the specific improvements we are considering.

## **II. Notices of Appeal**

### *. Introduction*

Rule 20(1) of the *Working Procedures* provides that an appeal shall be commenced by filing a notification in writing of the appeal. Rule 20(2) of the *Working Procedures* sets forth rules on the requirements for the contents of the Notice of Appeal:

A Notice of Appeal shall include the following information:

- (a) the title of the panel report under appeal;
- (b) the name of the party to the dispute filing the Notice of Appeal;
- (c) the service address, telephone and facsimile numbers of the party to the dispute; and
- (d) *a brief statement of the nature of the appeal, including the allegations of errors in the issues of law covered in the panel report and legal interpretations developed by the panel.* (emphasis added)

---

<sup>2</sup>WT/DSB/31.

The Appellate Body has had in several appeals occasion to consider issues relating to the Notice of Appeal.<sup>3</sup> Our experience in this regard has led us to the view that the content of the *Working Procedures* could be clarified with respect to: (i) the sufficiency of Notices of Appeal; and (ii) amendments to a Notice of Appeal. In addition, we believe that the current *Working Procedures* are not symmetric in their treatment of appellants and so-called "other" appellants. Specifically, although the *first* appellant is obliged to give notice of its appeal, the *other* appellant is not required to give any notice whatsoever. Instead, an other appellant simply files an other appellant's submission on day 15, five days after the appellant has submitted its appellant's submission. Thus, we are considering amendments to the *Working Procedures* to deal with these three issues relating to Notices of Appeal, each of which is discussed below.

#### *Content of the Notice of Appeal*

Notices of Appeal sometimes do not disclose very clearly what is appealed. This may be due, in part, to the fact that existing Rule 20(2)(d) of the *Working Procedures* provides little guidance as to the manner in which an appellant is to "briefly" state the "nature of the appeal" and the "allegations of error". The practice of Members regarding the content of their Notices of Appeal has also varied over the past eight years. In some cases, Members focus on describing the legal issues on which the panel allegedly erred, in others on identifying the relevant paragraphs of the panel report in which the alleged errors are contained, and in still other cases on identifying the relevant provisions of the covered agreements that the panel allegedly erred in interpreting.

Ambiguities in the Notice of Appeal can create difficulties for an appellee because, as we stated in *US – Shrimp*, the Notice of Appeal does not serve merely to "trigger" an appeal, but also to provide adequate notice to the appellee of the "nature of the appeal" and the "allegations of error". In other words, one purpose of the Notice is to enable the appellee to exercise fully its rights of defence.<sup>4</sup>

In the light of the difficulties experienced with Notices of Appeal, we believe that it would be helpful to Members if Rule 20(2)(d) of the *Working Procedures* were revised to give further guidance on the required contents of the Notice of Appeal.<sup>5</sup> We emphasize that our purpose in making this proposal is not to increase the burden placed upon appellants in the preparation of their Notices of Appeal. Rather, it is to encourage consistency in the content of Notices of Appeal and to ensure that appellees are, from the outset of an appeal, afforded full opportunity to exercise their rights of defence.

---

<sup>3</sup>See, for example, our Reports in *European Communities – Regime for the Importation, Sale and Distribution of Bananas*, WT/DS27/AB/R, adopted 25 September 1997, DSR 1997:II, 591, para. 152; *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, WT/DS58/AB/R, adopted 6 November 1998, DSR 1998:VII, 2755, para. 95; *United States – Countervailing Measures Concerning Certain Products from the European Communities* ("US – Countervailing Measures on Certain EC Products"), WT/DS212/AB/R, adopted 8 January 2003, paras. 62 and 70; *United States – Continued Dumping and Subsidy Offset Act of 2000*, WT/DS217/AB/R, WT/DS234/AB/R, adopted 27 January 2003, paras. 191-205; and *European Communities – Trade Description of Sardines* ("EC – Sardines"), WT/DS231/AB/R, adopted 23 October 2002, paras. 137-152.

<sup>4</sup>Another view holds that the notice of appeal serves only to signal the decision of a Party to launch an appeal of a panel report, with the result that the notice need indicate only which findings of the panel are being appealed. Members may wish to comment on this approach.

<sup>5</sup>We are aware that a similar proposal has been made in on-going negotiations on the DSU by India, on behalf of Cuba, the Dominican Republic, Egypt, Jamaica, Malaysia and Honduras. These Members have proposed the addition of a footnote to Article 17.6 of the DSU requiring the appellant to "identify the issues of law covered in the panel report and legal interpretations developed by the panel sufficiently clear enabling the other party and the third parties to a dispute to understand the issues under appeal." (TN/DS/W/47)

The issues of law that may give rise to an appeal stem from the panel's interpretation and/or application of a provision of the covered agreements, for instance Article III:4 of the GATT 1994. Even where the appellant alleges that the panel has erred in its treatment of the measure or in its assessment of the facts, the appeal must be based on a provision of a covered agreement, such as Article 11 of the DSU. Accordingly, we propose that the *Working Procedures* be amended to require the appellant to identify which specific legal provision, in a covered agreement, is the subject of its appeal.

In many cases, however, simply identifying a legal provision will not adequately identify the nature of the appeal. The appellee would have no notice as to the nature of the error(s) that the appellant considers the panel made in reaching its final conclusion(s). Therefore, we propose to amend Rule 20(2)(d) further to: (i) require the appellant to describe the specific error(s) of law that the panel made in its treatment of the provision at issue; and (ii) encourage the appellant to identify specific paragraphs of the panel report which contain the alleged error(s). We do not wish to suggest that the prescribed "description of the alleged errors of law in the panel report" in Rule 20(2)(d)(i) should be a comprehensive statement of the arguments. It should be sufficient simply to identify the main errors that the panel is alleged to have made in its reasoning and/or findings.

#### *Notice of Other Appeal*

At present, the *Working Procedures* do not provide for an other appellant to file a Notice of Other Appeal, although there is provision for filing an other appellant's submission in Rule 23(1). An other appeal is commenced simply by filing an other appellant's submission on day 15 of the appeal, that is, five days after the appellant's written submission. At no point does the other appellant give formal notice of the nature of the other appeal.

The requirement of a Notice of Appeal for the original appeal but not for an other appeal now seems to us to be anomalous. As noted above, a Notice of Appeal enables the appellee to exercise its right of defence effectively. Yet other participants (in particular the original appellant) must also be entitled to the same opportunity where there is an other appeal.

Further, we believe that the absence of a Notice of Other Appeal can create a risk of confusion as to the scope of the other appeal. This is because, under the present rules, an other appellant is not required to identify, in a concise manner, the scope of its appeal, and such scope may not always be clear from the arguments contained in the other appellant's submission.

We, therefore, propose that the *Working Procedures* be modified to include a requirement for the other appellant to file a Notice of Other Appeal. The rules on the content of this Notice would be the same as those applicable to the Notice of Appeal. We also consider that, like the original Notice of Appeal, the Notice of Other Appeal should be filed simultaneously with the Appellate Body Secretariat and the DSB, so that Members would receive notice of both appeals.

Providing for the filing of a Notice of Other Appeal, however, would affect the appeal timetable. In the same way that a Notice of Appeal is intended to provide an advance notification of the content of the original appeal, a Notice of Other Appeal should provide a preliminary, brief indication of the content of the other appeal, sufficient to allow the other appellee the opportunity to begin the preparation of its defence. Accordingly, we consider that the Notice of Other Appeal should be filed in advance of the due date for the other appellant's submission (day 15).

At the same time, a Member's decision as to whether or not to file an other appeal may be dictated, in part, by the scope of the original appeal. This may only be clear to the potential other appellant once the original appellant has put forth its detailed arguments, in writing, in its appellant's submission. The present procedures allow the potential other appellant an opportunity (5 days) to examine the written submission of the original appellant before deciding whether to file an other

appeal. We think that there is merit in maintaining the present rule of allowing the potential other appellant such a period of time to read the appellant's submission before filing a Notice of Other Appeal. Thus, we believe that the Notice of Other Appeal should be due *after* the appellant's submission is filed.

In our view, the only practical way to meet these two objectives (filing the Notice of Other Appeal *after* the appellant's submission but *before* the other appellant's submission), while continuing to ensure respect for the 90-day deadline for appeals, is to move up the date on which the appellant's submission would be due. We are therefore considering requiring that the appellant's submission be filed 7 days after the filing of the Notice of Appeal, and that the Notice of Other Appeal be filed 12 days after the filing of the Notice of Appeal. The other deadlines for the filing of written submissions and third participants' notifications would remain unchanged. Hence, the only modification to existing timelines would be changing the date for filing the appellant's submission from day 10 to day 7. Of course, the 60 days within which to file a Notice of Appeal following the circulation of a panel report would not change under this new approach.

In addition, and also for reasons of symmetry, we are considering adding a definition of "other appellant" to the *Working Procedures*, which currently define an "appellant", but not an "other appellant".

#### *Amending Notices of Appeal*

The present rules do not provide procedures for amending a Notice of Appeal. In the light of issues that have arisen in certain appeals<sup>6</sup>, we consider that it is in the interests of orderly procedure for the *Working Procedures* to be modified to clarify whether, and in what circumstances, an appellant can supplement the Notice of Appeal.

We consider it essential to preserve the Notice of Appeal as the single, key document that defines the scope of appeal. At the same time, we wish to avoid confusion that may arise when an appellant seeks to file different documents elaborating on or adding to its Notice of Appeal. For these reasons, we believe that it may be useful to provide for the possibility that an appellant may be authorized to amend its Notice of Appeal.<sup>7</sup>

We emphasize that we are not considering an unfettered right to change the Notice of Appeal. This could prejudice the interests of participants as well as create difficulties for the Appellate Body. Rather, we are considering making any appellant or other appellant's ability to amend its Notice of Appeal contingent upon the receipt of leave from the Division hearing the appeal. In order to obtain leave to amend the notice, an appellant or other appellant will be required to show cause. What is required to show cause will depend upon the circumstances of each case. Factors that we would expect to take into account in assessing any request to amend a Notice of (Other) Appeal would include the nature and extent of the proposed amendment, due process, the timing of the request to amend the Notice of (Other) Appeal, and any reasons why the proposed amended Notice was not or could not have been filed on its original due date. Changes to the appeals timetable would be minimized and, in any event, the 90-day period within which an appeal is to be completed would not be extended.

The Appellate Body would afford all participants and third participants an opportunity to comment on the justification for the proposed amendments before reaching a decision on whether to accept an amended Notice.

---

<sup>6</sup>See, for example, Appellate Body Report, *US – Countervailing Measures on Certain EC Products*, *supra*, footnote 3, paras. 58-75 and Appellate Body Report, *EC – Sardines*, *supra*, footnote 3, paras. 137-152.

<sup>7</sup>The same reasoning applies, *mutatis mutandis*, to Notices of Other Appeal.

### **III. The Three-Day Deadline for Correcting "Clerical" Errors**

Paragraph 5 of Rule 18 of the *Working Procedures* allows Members to "correct" their written submissions, subject to three qualifications. First, correction may occur only "upon authorization by the division"; secondly, the types of errors that may be corrected are "clerical errors"; and, thirdly, the correction "shall be made within 3 days of the filing of the original submission".

Members have occasionally had recourse to this provision over the last eight years. Their practice in this regard has demonstrated to us that: (i) the meaning of the word "clerical" is not always clear; and (ii) the 3-day requirement is too inflexible.

Accordingly, we are considering amending Rule 18(5) of the *Working Procedures* to eliminate the three-day time limit and to replace the word "clerical" with "minor". We also propose to add, in parentheses, an illustrative, though not exhaustive, list of what could constitute a "minor" error: for example, typographical errors, errors in syntax, or words or numbers in the wrong order.

Authorization to amend pursuant to this provision will be made on a case-by-case basis. It is also our intention, whenever a request is made pursuant to Rule 18(5), to afford all participants and third participants in the appeal an opportunity to comment upon the request.

### **IV. The Oral Hearing**

At present, the first paragraph of Rule 27 provides that the oral hearing "shall be held, as a general rule, 30 days after the date of the filing of the Notice of Appeal." In practice, oral hearings are usually held between 40 and 45 days after the date of the filing of the Notice of Appeal. Accordingly, we are considering amending Rule 27(1), as well as Annex I, to reflect the consistent practice of the Appellate Body, that is that "30" be replaced with "35-45". We also propose to simplify the wording of Rule 27(4) by deleting therefrom the superfluous words "as necessary".

### **V. Calculation of the 60 and 90 Day Time Limits**

#### *. Current Rules*

The calculation of relevant time frames for appeals is dealt with in Rule 17 of the *Working Procedures*, which provides:

- (1) Unless the DSB decides otherwise, in computing any time period stipulated in the DSU or in the special or additional provisions of the covered agreements, or in these Rules, within which a communication must be made or an action taken by a WTO Member to exercise or preserve its rights, the day from which the time period begins to run shall be excluded and, subject to paragraph 2, the last day of the time-period shall be included.
- (2) The DSB Decision on "Expiration of Time-Periods in the DSU", WT/DSB/M/7, shall apply to appeals heard by divisions of the Appellate Body.

#### *. Assessment of the Current Rules and Options for Consideration*

Over the last eight years, the Appellate Body has worked diligently to ensure circulation of its reports within the 90 day limit specified in Article 17.5 of the DSU. It has been successful in doing so in all but four cases. Nevertheless, meeting this time limit has proven exceptionally difficult when the

appeal period runs over certain holiday periods, particularly when the Appellate Body has been faced with a large number of simultaneous appeals during these periods. We understand that these circumstances have also proved onerous for Members. Therefore, we would like to mitigate some of the additional pressures and difficulties that the 90-day limit has in the past imposed during particular periods of the year.

To this end, we are considering amending Rule 17(1) of the *Working Procedures* to provide for two periods, each of three weeks' duration, during which time would not run for purposes of calculating the end of the 90 day period for appeals. These periods would occur in August and over the December/January holidays. We anticipate that, for appeals that run over these periods, it may also be necessary for the Division, after consultation with the participants and third participants, to make appropriate modifications to the Working Schedule for Appeal on a case-by-case basis.

We do not anticipate that this amendment would affect many appeals. In some cases, it would eliminate the need that has arisen in three cases of withdrawing Notices of Appeal and filing them at a later date, in order to accommodate the 90-day appeals timeline. It would also provide certainty to WTO Members in planning appeals during the relevant periods.

#### **VI. Amendment to Annex I**

Certain of the above amendments would also require minor amendments to Annex I to the *Working Procedures*, as indicated in the Annex attached to this letter.

#### **VII. Request for Written Comments**

Members have considerable experience with the provisions of the *Working Procedures* that we are considering amending, and their perspectives will be highly valuable to us in finalizing our decisions.

As mentioned at the outset of this letter, we would be pleased to receive comments from Members on the amendments we are considering. To that end, we would be grateful if you would bring the contents of this letter to the attention of Members, and seek their views in accordance with the additional procedures for consultations between Members and the Chairperson of the DSB with respect to amendments to the *Working Procedures*.<sup>8</sup> It would be particularly helpful for us to receive written comments from Members no later than 1 June 2004.

---

<sup>8</sup>*Supra*, footnote 2.

Annex A

Proposed Amendments to the Working Procedures for Appellate Review

. **Content of the Notice of Appeal**

Rule 20 could be amended as follows:

*Rule 20 (Commencement of Appeal)*

- (2) A Notice of Appeal shall include the following information:
- (a) the title of the panel report under appeal;
  - (b) the name of the party to the dispute filing the Notice of Appeal;
  - (c) the service address, telephone and facsimile numbers of the party to the dispute; and
  - (d) a brief statement of the nature of the appeal, including:
    - (i) a description of the allegations of alleged errors in the issues of law covered in the panel report and legal interpretations developed by the panel;
    - (ii) a list of the legal provision(s) of the covered agreements that the panel is alleged to have erred in interpreting or applying; and
    - (iii) an indicative list of the paragraphs of the panel report containing the alleged errors of law.

. **Notice of Other Appeal**

Rules 1, 21 and 23 could be amended as follows:

*Rule 1 (Definitions)*

- "appellant" means any party to the dispute that has filed a Notice of Appeal pursuant to Rule 20 ~~or has filed a submission pursuant to paragraph 1 of Rule 23;~~
- ...
- "appellee" means any party to the dispute that has filed a submission pursuant to Rule 22 or paragraph 3 4 of Rule 23;
- ...
- "documents" means the Notice of Appeal, any Notice of Other Appeal and the submissions and other written statements presented by the participants;
- ...
- "other appellant" means any party to the dispute that has filed a Notice of Other Appeal pursuant to paragraph 1 of Rule 23;

...



"participant" means any party to the dispute that has filed a Notice of Appeal pursuant to Rule 20, a Notice of Other Appeal pursuant to Rule 23 or a submission pursuant to Rule 22 or paragraphs 4 or 3-5 of Rule 23;

*Rule 21 (Appellant's Submission)*

- (1) The appellant shall, within ~~10~~ 7 days after the date of the filing of the Notice of Appeal, file with the Secretariat a written submission prepared in accordance with paragraph 2 and serve a copy of the submission on the other parties to the dispute and third parties.

*Rule 23 (Multiple Appeals)*

- (1) ~~Within 15 days after the date of the filing of the Notice of Appeal, a~~ A party to the dispute other than the original appellant ~~may~~ shall notify the DSB in writing within 12 days after the date of the filing of the Notice of Appeal if it wishes to join in that an appeal or to appeal on the basis of other alleged errors in the issues of law covered in the panel report file a Notice of Other Appeal, and legal interpretations developed by the panel. That party shall simultaneously file a Notice of Other Appeal with the Secretariat.
- (2) ~~Any written submission made pursuant to paragraph 1 shall be in the format required by paragraph 2 of Rule 21.~~  
A Notice of Other Appeal shall include the following information:  
(a) the title of the panel report under appeal;  
(b) the name of the party to the dispute filing the Notice of Other Appeal;  
(c) the service address, telephone and facsimile numbers of the party to the dispute; and either  
(i) a statement of the issues raised on appeal by another participant with which the party joins; or  
(ii) a brief statement of the nature of the other appeal, including:  
(A) a description of the alleged errors of law in the panel report;  
(B) a list of the legal provision(s) of the covered agreements that the panel is alleged to have erred in interpreting or applying;  
and  
(C) an indicative list of the paragraphs of the panel report containing the alleged errors of law.
- (3) ~~The other appellant shall, within 15 days after the date of the filing of the Notice of Appeal, file with the Secretariat a written submission prepared in accordance with paragraph 2 of Rule 21 and serve a copy of the submission on the other parties to the dispute and third parties.~~
- ~~(4)~~ (4) The appellant, any appellee and any other party to the dispute that wishes to respond to a submission filed pursuant to paragraph ~~1~~ 3 may file a written submission within 25 days after the date of the filing of the Notice of Appeal, and any such submission shall be in the format required by paragraph 2 of Rule 22.
- ~~(5)~~ (5) This Rule does not preclude a party to the dispute which has not filed a submission under Rule 21 or a Notice of Other Appeal under paragraph 1 of this Rule from exercising its right of appeal pursuant to paragraph 4 of Article 16 of the DSU.

- ~~(5)~~ (6) Where a party to the dispute which has not filed a submission under Rule 21 or a Notice of Other Appeal under paragraph 1 of this Rule exercises its right to appeal as set out in paragraph 4-~~5~~, a single division shall examine the appeals.

. **Amending Notices of Appeal**

Possible new Rule:

*Amending Notices of Appeal*

- (1) Upon cause shown, the division may authorize an original appellant to amend the Notice of Appeal or an other appellant to amend the Notice of Other Appeal.
- (2) A request to amend a Notice of Appeal or a Notice of Other Appeal shall be in writing and shall state the cause 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 the interests of fairness and orderly procedure, as well as the requirement to circulate the Appellate Body report within the time period set out in Article 17.5 of the DSU or, as appropriate, Article 4.9 of the *SCM Agreement*.
- (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.

. **Correcting Minor Errors**

Possible Amendment to Rule 18(5):

*Rule 18 (Documents)*

- (5) Upon authorization by the division, a participant or a third participant may correct ~~elerial~~ minor errors in any of its submissions documents (including typographical mistakes, errors of syntax, or words or numbers placed in the wrong order). Such correction shall be made within 3 days of the filing of the original submission and a copy of the revised version The request to correct minor errors shall identify the specific errors to be corrected and shall be filed with the Secretariat. A copy of the request shall be served upon the other parties to the dispute, participants, third parties and third participants, each of whom shall be given an opportunity to comment in writing on the request. The division shall notify the parties to the dispute, participants, third parties and third participants of its decision.

. **Calculation of Time Periods**

Possible amendment to paragraph 1 of Rule 17:

*Rule 17 (General Provisions)*

- (1) Unless the DSB decides otherwise, in computing any time-period stipulated in the DSU or in the special or additional provisions of the covered agreements, or in these Rules, within which a communication must be made or an action taken by a WTO Member to exercise or preserve its rights; :
  - (i) the day from which the time-period begins to run shall be excluded;
  - (ii) the following periods shall be excluded:
    - (a) a period of 21 days beginning on the first Monday in August of each year; and
    - (b) a period of 21 days beginning on the third Monday in December of each year; and
  - (iii) subject to paragraph 2, the last day of the time period shall be included.

. **Oral Hearing**

Possible amendments to paragraphs 1 and 4 of Rule 27:

*Rule 27 (Oral Hearing)*

- (1) A division shall hold an oral hearing, which shall be held, as a general rule, between 30 35 and 45 days after the date of the filing of the Notice of Appeal.

...
- (4) The Presiding Member may, ~~as necessary,~~ set time-limits for oral arguments ~~and presentations.~~

**G. Timetable for Appeals**

Possible amendments to Annex I to the *Working Procedures* :

**TIMETABLE FOR APPEALS<sup>1</sup>**

	<u>General Appeals</u>	<u>Prohibited Subsidies Appeals</u>
	Day	Day
Notice of Appeal <sup>1 2</sup>	0	0
Appellant's Submission <sup>2 3</sup>	<del>10</del> <u>7</u>	<del>5</del> <u>4</u>
<u>Notice of Other Appeal<sup>4</sup></u>	<u>12</u>	<u>6</u>
Other Appellant(s) Submission(s) <sup>3 5</sup>	15	7
Appellee(s) Submission(s) <sup>4 6</sup>	25	12
Third Participant(s) Submission(s) <sup>5 7</sup>	25	12
Third Participant(s) Notification(s) <sup>6 8</sup>	25	12
Oral Hearing <sup>7 9</sup>	<del>30</del> <u>35-45</u>	<del>15</del> <u>17-23</u>
Circulation of Appellate Report	60 – 90 <sup>8 10</sup>	30 – 60 <sup>9 11</sup>
DSB Meeting for Adoption	90 – 120 <sup>10 12</sup>	50 – 80 <sup>11 13</sup>

---

<sup>1</sup>Rule 17 applies to the computation of the time-periods below.

<sup>2</sup>Rule 20.

<sup>2 3</sup>Rule 21(1).

<sup>3 4</sup>Rule 23(1).

<sup>3 5</sup>Rule 23(~~3~~4).

<sup>4 6</sup>Rules 22 and 23(~~5~~3).

<sup>5 7</sup>Rule 24(1).

<sup>6 8</sup>Rule 24(2).

<sup>7 9</sup>Rule 27.

<sup>8 10</sup>Article 17:5, DSU.

<sup>9 11</sup>Article 4:9, *SCM Agreement*.

<sup>10 12</sup>Article 17:14, DSU.

<sup>11 13</sup>Article 4:9, *SCM Agreement*.

---