WORLD TRADE ORGANIZATION

RESTRICTED

WT/DSB/M/237
26 September 2007

(07-4043)

Dispute Settlement Body
10 August 2007

MINUTES OF MEETING

Held in the Centre William Rappard
on 10 August 2007

Chairman: Mr. Bruce Gosper (Australia)

1. Brazil – Measures affecting imports of retreaded tyres

(a) Joint request by the European Communities and Brazil for a decision by the DSB (WT/DS332/8)

1. The Chairman drew attention to the communication from the European Communities and Brazil contained in document WT/DS332/8, and invited the representative of the European Communities to speak.

2. The representative of the European Communities said that the Panel had circulated its final Report in this dispute on 12 June 2007. The 60-day period within which the DSB was normally obliged to decide on the adoption of panel reports that were not appealed, under Article 16.4 of the DSU, would expire on 13 August 2007. In order to take account of certain scheduling difficulties concerning the appeal procedure, the parties to this dispute had agreed that the 60-day time-period as applicable to this dispute would be extended to 20 September 2007. The parties to the dispute had also reached the understanding that a decision of the DSB on this extension would be sought at the present meeting. The extension had been agreed between the parties on the understanding that the rights of the parties to the dispute with respect to adoption or appeal of the Panel Report were preserved, as if such adoption or appeal had been requested within the 60 days specified in Article 16.4 of the DSU. This was without prejudice to the question of whether these rights would not be preserved without such extension. The EC would be grateful if the DSB could accede to the joint request of the parties to decide on the extension of the 60-day time-period.

3. The representative of Brazil said that the Panel Report in this dispute had been circulated to Members on 12 June 2007 as document WT/DS332/R. That meant that the end of the 60-day period under Article 16.4 of the DSU would be on 11 August 2007. The Panel conclusions were legally sound and highly favourable to the environmental and public health concerns that had led Brazil to impose the import ban on retreaded tyres. More specifically, the Panel had considered that the import ban imposed by Brazil on retreaded tyres was a measure necessary to protect human health and the environment. Since reformed tyres had a shorter life cycle than new ones, their importation accelerated the generation and accumulation of waste in the importing country. The Panel had found that, by reducing waste generation, the Brazilian measures contributed to combating the risks associated with the accumulation and transportation of waste tyres. Those risks included diseases transmitted by mosquitoes, and health problems created, among other factors, by the burning of tyres on open sites or even at controlled furnaces. Brazil welcomed those findings and, after an in-depth

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examination of the legal implications of the Panel Report, Brazil had decided not to appeal it, as it had been publicly announced on the day the Report had been made available to WTO Members and the public in general. However, the EC had a different view and had recently conveyed to Brazil its intention to take the matter to the attention of the Appellate Body.

4. In light of the EC's position and due to certain scheduling difficulties related to the appeal procedure, Brazil and the EC had reached, on 30 July 2007, a procedural agreement regarding the time-period under Article 16.4 of DSU. That agreement had been circulated to Members in document WT/DS332/8. Pursuant to it, Brazil respectfully requested that the DSB, at the present meeting, adopt the draft decision contained in document WT/DS332/8, thereby extending the 60-day time-period in Article 16.4 of the DSU to 20 September 2007. That extension was agreed on the understanding that the rights of the parties to the dispute with respect to adoption or appeal of the Panel Report were preserved, as if such adoption or appeal had been requested within the 60 days specified in Article 16.4 of the DSU.

5. The DSB took note of the statements.

6. The Chairman proposed that: "The DSB agree that, upon a request by Brazil or the European Communities, the DSB shall no later than 20 September 2007, adopt the Report of the Panel in the dispute: *Brazil – Measures Affecting Imports of Retreaded Tyres* contained in document WT/DS332/R unless (i) the DSB decides by consensus not to do so or (ii) Brazil or the European Communities notifies the DSB of its decision to appeal pursuant to Article 16.4 of the DSU".

7. The DSB so agreed.