

**UNITED STATES – SECTION 110(5) OF THE US COPYRIGHT ACT**

Recourse by the European Communities and its Member States  
to Article 22.6 of the DSU

*Constitution of the Arbitrator*

Note by the Secretariat

1. At its meeting on 18 January 2002, the Dispute Settlement Body (DSB) agreed that the matter raised by the European Communities and its member States in document WT/DS160/19 shall be referred to arbitration in accordance with Article 22.6 of the DSU.

2. Article 22.6 of the DSU provides as follows:

"When the situation described in paragraph 2 occurs, the DSB, upon request, shall grant authorization to suspend concessions or other obligations within 30 days of the expiry of the reasonable period of time unless the DSB decides by consensus to reject the request. However, if the Member concerned objects to the level of suspension proposed, or claims that the principles and procedures set forth in paragraph 3 have not been followed where a complaining party has requested authorization to suspend concessions or other obligations pursuant to paragraph 3(b) or (c), the matter shall be referred to arbitration. Such arbitration shall be carried out by the original panel, if members are available, or by an arbitrator<sup>15</sup> appointed by the Director-General and shall be completed within 60 days after the date of expiry of the reasonable period of time. Concessions or other obligations shall not be suspended during the course of the arbitration."

(original footnote) <sup>15</sup> The expression "arbitrator" shall be interpreted as referring either to an individual or a group.

3. The arbitration will be carried out by the following individuals:<sup>1</sup>

Chairman: Mr. Ian F. Sheppard

Members: Mrs. Margaret Liang  
Mr. David Vivas-Eugui

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<sup>1</sup> The parties agreed that the arbitration should be carried out by the individuals that served in earlier arbitration proceedings between the parties under Article 25 of the DSU. *See* document WT/DS160/16.