

**EUROPEAN COMMUNITIES – REGIME FOR THE IMPORTATION,
SALE AND DISTRIBUTION OF BANANAS**

Recourse to Article 21.5 of the DSU by the United States

Constitution of the Panel

Note by the Secretariat

1. At its meeting on 12 July 2007, the Dispute Settlement Body (DSB) decided, in accordance with Article 21.5 of the Dispute Settlement Understanding (DSU), to refer to the original Panel, if possible, the matter raised by the United States in document WT/DS27/83.

2. The Panel's terms of reference are the following:

"To examine, in the light of the relevant provisions of the covered agreements cited by the United States in document WT/DS27/83, the matter referred to the DSB by the United States in that document, and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements."

3. On 3 August 2007, the United States requested the Director-General to determine the composition of the Panel, pursuant to paragraph 7 of Article 8 of the DSU. This paragraph provides:

"If there is no agreement on the panelists within 20 days after the date of the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the DSB and the Chairman of the relevant Council or Committee, shall determine the composition of the panel by appointing the panelists whom the Director-General considers most appropriate in accordance with any relevant special or additional rules or procedures of the covered agreement or covered agreements which are at issue in the dispute, after consulting with the parties to the dispute. The Chairman of the DSB shall inform the Members of the composition of the panel thus formed no later than 10 days after the date the Chairman receives such a request."

4. On 13 August 2007, the Director-General accordingly composed the Panel as follows:

Chairperson: Mr Christian Häberli

Members: Mr Kym Anderson
Mr Yuqing Zhang

5. Belize, Brazil, Cameroon, Colombia, Côte d'Ivoire, the Dominican Republic, Ecuador, Jamaica, Japan, Mexico, Nicaragua, Panama and Suriname reserved their third-party rights to participate in the Panel's proceedings.
