



BRAZIL – CERTAIN MEASURES CONCERNING TAXATION AND CHARGES

COMMUNICATION FROM THE APPELLATE BODY

The following communication, dated 27 November 2017, from the Chair of the Appellate Body to the Chair of the Dispute Settlement Body, is being circulated to Members.

I am writing to you pursuant to Article 17.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), which stipulates that, as a general rule, the Appellate Body will circulate its Report no later than 60 days after the appellant has formally notified the Dispute Settlement Body (DSB) of its decision to appeal. Article 17.5 states, furthermore, that when the Appellate Body considers that it cannot provide its Report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its Report.

Brazil notified the DSB on 28 September 2017 of its decision to appeal certain issues of law covered in the Panel Report and legal interpretations developed by the Panel in this case, with the result that the 60-day period expires on Monday, 27 November 2017. Due to the time required to hear and decide this appeal, the Appellate Body is not able to circulate its Report by this date.

The Appellate Body faces a substantially enhanced workload in 2017, with several appeals proceeding in parallel, and there is increasing overlap in the composition of the Divisions hearing the different appeals owing to the current vacancies on the Appellate Body. Due to the scheduling issues arising from these circumstances, the number and complexity of the issues raised in this and concurrent appellate proceedings, together with the demands that these concurrent appeals place on the WTO Secretariat's translation services, and the shortage of staff in the Appellate Body Secretariat, the Appellate Body will not be able to circulate its Report in this dispute within the 90-day timeframe provided for in Article 17.5 of the DSU.

The circulation date of the Appellate Body Report in this appeal will be communicated to the participants and third participants after the oral hearing.
