

**UNITED STATES – FINAL COUNTERVAILING DUTY DETERMINATION WITH
RESPECT TO CERTAIN SOFTWOOD LUMBER FROM CANADA**

Recourse by the United States to Article 22.6 of the DSU

Constitution of the Arbitrator

Note by the Secretariat

1. At the meeting of the Dispute Settlement Body on 14 January 2005, it was agreed that the matter raised by the United States in document WT/DS257/17 was 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 arbitrator¹ 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."

3. It was not possible for a member of the original Panel to participate in these proceedings.

4. On 7 February 2005, the parties agreed on a replacement panelist, and as a result the arbitration will be carried out by the following individuals:

Chairman: Mr Elbio O. Rosselli

Members: Ms Marta Calmon Lemme
Mr Remo Moretta

¹ The expression "arbitrator" shall be interpreted as referring either to an individual or a group.