

**EUROPEAN COMMUNITIES – MEASURES AFFECTING ASBESTOS
AND ASBESTOS-CONTAINING PRODUCTS**

Communication from the Appellate Body

The following communication, dated 8 November 2000, was addressed by the Chairman of the Appellate Body to the Chairman of the Dispute Settlement Body, informing him of the additional procedure adopted by the Division hearing the appeal in *European Communities – Measures Affecting Asbestos and Asbestos-Containing Products*, pursuant to Rule 16(1) of the *Working Procedures for Appellate Review*.

I am writing to inform you that the Division hearing the above appeal has decided, in the interests of fairness and orderly procedure in the conduct of this appeal, to adopt an additional procedure to deal with any written briefs received by the Appellate Body from persons other than a party or a third party to this dispute. This additional procedure has been adopted by the Division hearing this appeal for the purposes of this appeal only pursuant to Rule 16(1) of the *Working Procedures for Appellate Review*, and is *not* a new working procedure drawn up by the Appellate Body pursuant to paragraph 9 of Article 17 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*.

Attached, for your information, is a copy of this additional procedure.

*European Communities – Measures Affecting Asbestos and
Asbestos-Containing Products*

AB-2000-11

*Additional Procedure Adopted Under Rule 16(1) of the
Working Procedures for Appellate Review*

To All Participants and Third Participants:

1. In the interests of fairness and orderly procedure in the conduct of this appeal, the Division hearing this appeal has decided to adopt, pursuant to Rule 16(1) of the *Working Procedures for Appellate Review*, and after consultations with the parties and third parties to this dispute, the following additional procedure for purposes of this appeal only.
2. Any person, whether natural or legal, other than a party or a third party to this dispute, wishing to file a written brief with the Appellate Body, must apply for leave to file such a brief from the Appellate Body *by noon on Thursday, 16 November 2000*.
3. An application for leave to file such a written brief shall:
 - (a) be made in writing, be dated and signed by the applicant, and include the address and other contact details of the applicant;
 - (b) be in no case longer than three typed pages;
 - (c) contain a description of the applicant, including a statement of the membership and legal status of the applicant, the general objectives pursued by the applicant, the nature of the activities of the applicant, and the sources of financing of the applicant;
 - (d) specify the nature of the interest the applicant has in this appeal;
 - (e) identify the specific issues of law covered in the Panel Report and legal interpretations developed by the Panel that are the subject of this appeal, as set forth in the Notice of Appeal (WT/DS135/8) dated 23 October 2000, which the applicant intends to address in its written brief;
 - (f) state why it would be desirable, in the interests of achieving a satisfactory settlement of the matter at issue, in accordance with the rights and obligations of WTO Members under the DSU and the other covered agreements, for the Appellate Body to grant the applicant leave to file a written brief in this appeal; and indicate, in particular, in what way the applicant will make a contribution to the resolution of this dispute that is not likely to be repetitive of what has been already submitted by a party or third party to this dispute; and
 - (g) contain a statement disclosing whether the applicant has any relationship, direct or indirect, with any party or any third party to this dispute, as well as whether it has, or will, receive any assistance, financial or otherwise, from a party or a third party to this dispute in the preparation of its application for leave or its written brief.

4. The Appellate Body will review and consider each application for leave to file a written brief and will, without delay, render a decision whether to grant or deny such leave.
 5. The grant of leave to file a brief by the Appellate Body does not imply that the Appellate Body will address, in its Report, the legal arguments made in such a brief.
 6. Any person, other than a party or a third party to this dispute, granted leave to file a written brief with the Appellate Body, must file its brief with the Appellate Body Secretariat *by noon on Monday, 27 November 2000*.
 7. A written brief filed with the Appellate Body by an applicant granted leave to file such a brief shall:
 - (a) be dated and signed by the person filing the brief;
 - (b) be concise and in no case longer than 20 typed pages, including any appendices; and
 - (c) set out a precise statement, strictly limited to legal arguments, supporting the applicant's legal position on the issues of law or legal interpretations in the Panel Report with respect to which the applicant has been granted leave to file a written brief.
 8. An applicant granted leave shall, in addition to filing its written brief with the Appellate Body Secretariat, also serve a copy of its brief on all the parties and third parties to the dispute *by noon on Monday, 27 November 2000*.
 9. The parties and the third parties to this dispute will be given a full and adequate opportunity by the Appellate Body to comment on and respond to any written brief filed with the Appellate Body by an applicant granted leave under this procedure.
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