



Advisory Centre on WTO Law
Centre Consultatif sur la Législation de l'OMC
Centro de Asesoría Legal en Asuntos de la OMC

COURSE ON WTO

DISPUTE SETTLEMENT PROCEDURES

13 October 2005 - 30 March 2006

Proposed Programme

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No.	Date	Subject	Responsible Lawyers
1	13 October 2005	<p>Introductory Session</p> <ul style="list-style-type: none"> ▪ Objectives and format of course ▪ Distribution of course material ▪ www.worldtradelaw.net ▪ Who used the DSU against whom for what purpose: a statistical analysis ▪ Experience of developing countries and customs territories in WTO dispute settlement 	<p>F. Roessler C. Valles</p> <p>T. Sebastian</p> <p>F. Roessler C. Valles</p>
2	20 October	<p>Overview</p> <ul style="list-style-type: none"> ▪ A brief history of dispute settlement procedures in the GATT and the WTO ▪ Basic features of the current procedures 	<p>F. Roessler</p>
3	27 October	<p>Effective Use of the DSU</p> <p>Legal and procedural considerations that should be taken into account in deciding whether to:</p> <ul style="list-style-type: none"> ▪ Negotiate or proceed to dispute settlement ▪ Withdraw the complaint or suspend the proceedings ▪ Settle the case ▪ Notification of mutually agreed solutions ▪ Individual or joint complaints: participate as a co-complainant or third party <p>Use of the WTO dispute settlement procedures or the procedures under a regional trade agreement</p>	<p>N. Meagher P. Gappah</p>

4	3 November	<p>The Scope of the DSU</p> <ul style="list-style-type: none"> ▪ Who can bring a WTO case? ▪ Which legal instruments can be invoked in the WTO dispute settlement system? <ul style="list-style-type: none"> - A bilateral agreement - A ministerial declaration - A multilateral environmental agreement ▪ Which measures can be challenged? <ul style="list-style-type: none"> - Terminated or future measures - Discretionary legislation prior to its application - Measures taken during the course of the proceedings ▪ Whose measures can be challenged? <ul style="list-style-type: none"> - Measures by sub-federal governments - Measures by private entities, such as export or import cartel arrangements - Measures by the organs of the WTO, such as the refusal to recognise a Member as having a principal supplying interest under Article XXVIII of the GATT 	<p>F. Roessler</p> <p>C. Valles</p> <p>T. Sebastian</p>
5	10 November	<p>Interpretation of WTO law</p> <ul style="list-style-type: none"> ▪ Principles of treaty interpretation ▪ Role of precedent in WTO law ▪ Relationship of WTO law to public international law ▪ What other international agreements can be considered as part of "the covered agreements"? 	<p>C. Valles</p> <p>T. Sebastian</p> <p>N. Meagher</p>
6	17 November	<p>Consultations</p> <ul style="list-style-type: none"> ▪ Whether to seek Article XXII or Article XXIII consultations ▪ Role of consultations: resolve the dispute or assist complainant to prepare its case ▪ How to draft a request for consultations ▪ Preparation of advance questions ▪ Composition of delegations ▪ Use of information obtained during consultations 	<p>F. Piérola</p> <p>O. Dios</p>

7	24 November	<p>Establishment and Composition of Panels</p> <ul style="list-style-type: none"> ▪ How to draft the panel request ▪ Relationship between consultations and panel request ▪ Identification of the specific measures at issue ▪ Avoiding disputes on terms of reference of the panel (DSU Article 6.2) ▪ Panel selection: criteria for panelists; criteria for Chair; seeking a "balanced" panel; whether to seek sectoral expertise; whether to exclude non-governmental nationals of disputing or third parties; rights of developing country Members; role of Secretariat; role of Director General 	<p>N. Meagher H. Nottage</p>
8	1 December	<p>Panel Proceedings</p> <ul style="list-style-type: none"> ▪ Burden of proof and shifting of the burden of proof in <i>prima facie</i> cases ▪ Standard of review and objective assessment of the matter 	<p>N. Meagher T. Sebastian</p>
9	19 January	<p>Panel Proceedings</p> <ul style="list-style-type: none"> ▪ Working procedures ▪ Business confidential information ▪ Composition of the delegation ▪ Preliminary rulings ▪ Judicial economy 	<p>N. Meagher T. Sebastian</p>
10	26 January 2006	<p>Presentation of Case by the Complainant and Respondent</p> <ul style="list-style-type: none"> ▪ How to present a case before a panel ▪ Drafting submissions ▪ First and rebuttal submissions ▪ The facts: telling the story convincingly ▪ Legal argument ▪ Collecting and presenting exhibits ▪ Oral argument ▪ Answering questions from the panel ▪ Managing multiple complaints ▪ Interim review 	<p>N. Meagher</p>
11	2 February	<ul style="list-style-type: none"> ▪ Evidence <ul style="list-style-type: none"> - economic studies - access to information - adverse inferences - domestic law ▪ Use of experts 	<p>C. Valles H. Nottage</p>

12	9 February	<p>Appellate Review Proceedings</p> <ul style="list-style-type: none"> ▪ The appellate review process ▪ Scope of appellate review (distinction between facts and law, completing the legal analysis) ▪ Working procedures for Appellate Review ▪ Timetable for an appeal ▪ How to draft a notice of appeal ▪ Should you cross-appeal? 	C. Valles F. Piérola
13	16 February	<p>Appellate Review Proceedings (cont'd)</p> <ul style="list-style-type: none"> ▪ Should you make a DSU Article 11 claim? ▪ Drafting submissions ▪ Nature of questions by the Appellate Body division ▪ Remand authority? <p>Third Parties</p> <ul style="list-style-type: none"> ▪ Seeking to join consultations - demonstrating a "substantial trade interest" ▪ Different third-party rights at the consultations, panel and appellate stages 	C. Valles F. Piérola H. Nottage
14	23 February	<p>Third Parties (cont'd)</p> <ul style="list-style-type: none"> ▪ Drafting effective third-party submissions ▪ "Passive observer" status at the Appellate Body ▪ Article 21.5, Article 22.6 - role of third parties ▪ Amicus briefs <p>Implementation DSU Article 21.3: determination of reasonable period of time for implementation</p> <ul style="list-style-type: none"> ▪ Negotiations on the compliance period ▪ Arbitration on the compliance period ▪ Key arbitral decisions under DSU Article 21.3(c) ▪ Can you have more than one RPT? ▪ Surveillance by the DSB 	H. Nottage O. Dios P. Gappah
15	2 March	<p>Non-implementation: DSU Article 21.5</p> <ul style="list-style-type: none"> ▪ Determination of compliance: Article 21.5 	N. Meagher
16	9 March	<p>Moot Court Simulation Exercise</p> <ul style="list-style-type: none"> ▪ Lifting "retaliation" when a Member believes it has brought itself into conformity with its WTO obligations ▪ Preparatory session for moot court simulation 	All

17	16 March	Moot Court Simulation Exercise <ul style="list-style-type: none">▪ Simulation by course participants of the dispute on the <i>EC – Continued Suspension of Obligations in EC-Hormones Case</i>	All
18	23 March	Moot Court Simulation Exercise	All
	30 March	Luncheon <ul style="list-style-type: none">▪ Distribution of Certificates of Attendance	