



CHINA – ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

SUSPENSION OF PANEL WORK

COMMUNICATION FROM THE PANEL

The following communication, dated 2 April 2025, was received from the Chairperson of the Panel with the request that it be circulated to the Dispute Settlement Body.

On 4 July 2023, the European Union and China notified the DSB of their mutual agreement to enter into arbitration under Article 25 of the DSU to "decide any appeal from any final panel report as issued to the parties" in the above-mentioned dispute (Agreed Arbitration Procedures).¹ Paragraph 34 of Working Procedures for these proceedings states that "[t]he Panel shall take note of any Agreed Procedures for Arbitration under Article 25 of the DSU that the parties may notify in this dispute".²

On 21 February 2025 the Panel issued its Final Report to the parties and, having consulted with the parties, adopted the Additional Working Procedures to Facilitate Arbitration under Article 25 of the DSU (Additional Working Procedures).³ Taking into account paragraph 3 of the Agreed Arbitration Procedures, the Panel informed the parties that circulation of the Panel Report to Members in all three WTO languages was scheduled for 10 April 2025.⁴

According to paragraph 4 of the Agreed Arbitration Procedures, "[f]ollowing the issuance of the final panel report to the parties, but no later than 10 days prior to the anticipated date of circulation of the final panel report to the rest of the Membership, any party may request that the panel suspend the panel proceedings with a view to initiating the arbitration under these agreed procedures."

On 31 March 2024 the European Union, pursuant to paragraph 4 of the Agreed Arbitration Procedures and Article 12.12 of the DSU⁵, made such a request. Upon receipt of this suspension request, on 1 April 2025, the Panel transmitted its Report in the three WTO languages to the parties and third parties and instructed the Dispute Settlement Registry to transmit the same to the pool of arbitrators, in accordance with paragraph 1 of the Additional Working Procedures.

¹ Agreed procedures for arbitration under Article 25 of the DSU, WT/D611/7 (fn omitted).

² Working Procedures of the Panel (Panel Report, Annex A-1), para. 34.

³ Additional Working Procedures of the Panel to facilitate arbitration under Article 25 of the DSU (Panel Report, Annex A-2).

⁴ Para. 3 of the Agreed Arbitration Procedures provides:

In order to facilitate the proper administration of arbitration under these agreed procedures, the parties hereby jointly request the panel to notify the parties of the anticipated date of circulation of the final panel report within the meaning of Article 16 of the DSU, no later than 45 days in advance of that date.

⁵ Paragraph 4 of the Agreed Arbitration Procedures provides that "such request by any party is deemed to constitute a joint request by the parties for suspension of the panel proceedings for 12 months pursuant to Article 12.12 of the DSU". Article 12.12 of the DSU provides that the Panel may suspend its work at any time at the request of the complaining party for a period not exceeding 12 months. This provision also indicates that if the work of the Panel has been suspended for more than 12 months, the authority for establishment of the Panel shall lapse.

If a Notice of Appeal is filed, in accordance with paragraph 4 of the Additional Working Procedures, the record of the Panel proceedings will be transmitted to the arbitrators "as soon as possible" after they are selected. Pursuant to that same paragraph, by letter dated 1 April 2024, the Panel sought the views of the third parties concerned with respect to transmitting to the three appointed arbitrators, as part of the Panel record, the third-party submissions, oral statements, and responses to questions.

Having transmitted the final report in the three WTO languages to the parties, third parties, and the pool of arbitrators, pursuant to paragraph 3 of the Additional Working Procedures the Panel hereby informs the Dispute Settlement Body of its decision of 2 April 2025 to grant the request to suspend the panel proceedings effective the same day. The Panel will therefore not circulate its Report to WTO Members unless the Panel is requested to resume its work within the time-period specified in Article 12.12 of the DSU.

The Panel recalls that, pursuant to the Additional Working Procedures, the final Panel Report in all three WTO languages remains confidential until the filing of a Notice of Appeal.

I would be grateful if you would circulate this letter to the DSB.
