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Cabinet of Commissioner Peter Mandelson
Member of Cabinet

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FAX

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Subject:

Message:

Please find attached Mr Mandelson's reply to Mr Daniel Barstow Magraw's letter of 9 June.

Best regards,

Anna Lupina
Secretary to Hiddo Hauben
Member of Cabinet

Brussels, 4 July 2006
D(06) 1150

Mr Daniel Barstow Magraw
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Daniel Barstow Magraw,

I refer to your letter of 9 June 2006, requesting the European Commission to make available to the public its first written submission in the WTO dispute *Brazil - Measures affecting retreated tyres*, as well as subsequent filings. At the outset, I would like to express my appreciation for your organization's interest in the European Communities' position in this dispute. It is indeed important to take into consideration the arguments of both sides in a case like this. We would have expected more of such an objective approach in your background paper of March 2006, which instead accepts at face value many of the assertions put forward by Brazil and contains factual inaccuracies, without similarly reflecting the arguments which the European Communities had expressed either in the same WTO meetings or in the report on the investigation under the Trade Barriers Regulation.

I also share your commitment to transparency in the WTO. As you know, the European Communities show strong leadership in efforts to make the WTO more transparent at all levels. An important example and achievement in this regard is the opening of the panel hearings in the *US and Canadian sanctions* dispute, which you mention. In that case, the European Communities, together with the defendants, fought for and obtained open access for the public. It is not because of the European Communities if this practice does not (yet) apply to all WTO disputes - for the time being we depend on whoever is the other party. For the future, we also strive for open hearings as part of the negotiated results of the DDA.

As regards written submissions to WTO panels and the Appellate Body, you may know that the European Communities normally follow a consistent practice of making them public immediately after the oral hearing in which the respective submission is presented and discussed. A few other WTO Members make their submissions public as well, and I congratulate Brazil to have become one of them. Even if some of these other WTO Members publicise their submissions already at the moment of filing, our general policy remains that of waiting until the following oral hearing. Therefore, you will find our first written submission online after the first oral hearing and the second written submission after the second oral hearing.



Peter Mandelson